*Volume XXX*] *September, 1915* [*Number 3*

# POLITICAL SCIENCE QUARTERLY

## A GREAT SECRETARY OF STATE[1]

WILLIAM L. MARCY

IN his day and generation, William L. Marcy stood among the foremost men of the country. He barely lost the nomination for the presidency of the United States, and if nominated would have been elected. A few years after his death, his fame suffered the eclipse which befell that of so many able statesmen whose public career ended just prior to the Civil War. The great conflict naturally cast into oblivion the men and the measures that immediately preceded it, unless they were distinctly identified with the controversies that brought it about. Such was the fate of more than one of the most capable and most eminent leaders of the old National Democratic party, among whom the subject of the present paper occupied so conspicuous a place.

William Learned Marcy was born December 12, 1786, in Massachusetts, in that part of the town of Sturbridge which is now called Southbridge. His father was Jedediah Marcy, a farmer; his mother, whose maiden name was Ruth Learned, was the daughter of a husbandman. After studying for a time at Leicester Academy, the son, William L., entered Brown University, where he was graduated with high honors in 1808.

Being obliged to rely upon his own resources, young Marcy soon after his graduation at Brown set out to seek his fortune in the world, and to this end footed it across the state of Mas-

[1] The substance of this article was delivered as the commencement address before the Phi Beta Kappa Society of Brown University, Tuesday, June 15, 1915.



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sachusetts to what must then have been regarded, in Sturbridge, as the distant city of Troy, in the state of New York. Here, supporting himself by employment in a store, and perhaps also to some extent by teaching, he entered upon the study of the law, and was in due time admitted to the practice of that profession. From the very first he also took an active interest in politics, and became a contributor to the columns of the Troy *Budget*, an anti-Federalist organ. It was an age of warm political controversy, in which foreign questions loomed comparatively at least as large as they do today. Marcy early espoused the principles of the Republican or, as it was afterwards called, the Democratic party. It was a favorite story of an old Democratic friend of mine that the supreme judicial court of Massachusetts once formally decided that Jeffersonian Republicans were *ferae naturae* and might be shot on sight. I have never sought to verify this statement, but its humorous exaggeration perhaps does not unduly overemphasize the antagonism and the horror excited in certain quarters by what appeared to be the subversive and impious creed of the Jeffersonian sect. Marcy, in a brief autobiographical memorandum, narrates that he was excluded from a literary society formed by the principal of Leicester Academy because of his Republican proclivities. Upon this incident he remarks that it served only to increase his devotion to his principles.

In June, 1812, the war with Great Britain broke out. A military company in which Marcy was a lieutenant, offering its services to Governor Tompkins, was sent to the front. It was subsequently dispatched to French Mills, later known as Fort Covington. On the night of October 22, 1812, a detachment under Colonel Young was sent out to capture a company of Canadian militia at St. Regis. Marcy was of the party. At the head of a file of men, he approached the house in which the militia lodged, and himself broke open the door. The inmates were captured and disarmed. These were, with the exception of some troops captured by General Cass in Michigan but afterwards recaptured, the first British troops taken on land during the war. Their flag also was captured and was the first standard taken on land. Marcy with his company subsequently

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joined the main army under General Dearborn. When his first enlistment expired, he returned to Troy; but later, when the city of New York was threatened, he volunteered a second time and was for a while again in service.

In 1816 Marcy was appointed recorder of Troy. He had already formed an intimacy, personal and political, with Martin Van Buren, and like Van Buren reluctantly voted for De Witt Clinton as the Republican candidate for governor in 1817. His well-known dissatisfaction with some of the measures of Clinton's administration led to threats of his removal from the office of recorder. The desire to discipline him was increased by his criticism of Clinton's administration in the columns of the Albany *Argus*, to which he became a frequent contributor. As a result, he was removed from the recordership in June, 1818, and a Clintonian was appointed in his stead. This act Marcy never ceased to resent. It greatly intensified the strong repugnance which he always felt to proscription for political opinions. For the next three years Marcy actively pursued the practice of his profession; but he also continued to engage in politics. He supported Van Buren in his efforts to reorganize the Republican party in 1819 and 1820 by the exclusion of Clintonians, and powerfully contributed by his pen to the success of the anti-Clintonian cause.

In January, 1821, a new council of appointment composed entirely of Republicans having been chosen, Marcy was appointed adjutant general of the state. In this position there was little opportunity for distinction; but in February, 1823, he was chosen to fill the office of state comptroller, which had been left vacant by the appointment of its incumbent, John Savage, as chief justice of the new supreme court under the constitution of 1821. On his election to the comptrollership, Marcy removed to Albany, where he ever afterwards continued to reside. The office of comptroller was then a highly important one, owing to the large expenditures required for the Erie and Champlain canals and the consequent increase of the state debt. It was universally conceded that Marcy performed the duties of the office with marked fidelity and skill. He introduced an improved system of collecting tolls and making

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disbursements, and first exacted the payment of interest on moneys of the state deposited with banks.

In 1829 Marcy was appointed a justice of the supreme court of New York. He discharged the duties of this office with great credit to himself, and with entire satisfaction both to the bar and to the public. During his term of service on the bench, it fell to his lot to preside over one of the most celebrated criminal trials ever held in the United States. This was the trial of the alleged slayers of William Morgan, of Batavia, New York, a case that for several years excited the liveliest interest and divided families, society, churches, and political parties. Moved partly by differences with some of the members of the Masonic order, of which he was a member, Morgan conceived the design of exposing its secrets. To this end he wrote a book, the publication of which he committed to a printer named Miller. When the existence of this design became known, it produced in Masonic circles an agitation and alarm for which there was less reason than excited minds were then disposed to think. Attempts were made to destroy Miller's printing house; and after the failure of these and of other efforts to prevent the publication of the volume, certain misguided persons resorted to the desperate expedient of getting Morgan out of the way. He was accordingly seized and taken to Fort Niagara, where, after a brief detention, he was, as came generally to be believed, thrown into the Niagara River. Trials of persons concerned in the conspiracy were held at various places; but, for what may be regarded as the principal trial, that of the actual slayers, the legislature of New York, in 1830, passed a law for the holding of a special circuit of the supreme court in Niagara county. For this difficult task Marcy was selected. Thurlow Weed had sought to make of Morgan's case a political issue, because of the identification of leading Democratic politicians with the Masonic fraternity; but, after the trial was over, although it resulted in a doubtful verdict for the defendants, it was conceded on all sides that Judge Marcy had conducted his part of the proceedings with distinguished ability and entire impartiality.

But, to the upright judge, the recollection of the case was

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not without its pangs. History, if truly narrated, does not always move on the stilts of dignity; and it is my duty to record that there was a trivial incident of Marcy's brief sojourn in Niagara county that caused him greater mortification than any other event of his life. The statute under which the special circuit was held provided for the payment of the judge's expenses, and, while acting under it, Marcy was compelled to invoke the services of a tailor. As comptroller of the state he had strongly objected to the lumping of charges, insisting upon the strict itemization of all accounts. Obeying as a judge the rule he had enforced as comptroller, he included in his account for expenses at Niagara an item reading: "For mending my pantaloons, 50 cents." When he ran for the governorship in 1832, some curious and diligent enemy, closely scrutinizing his accounts, saw in this charge an opportunity to expose the scrupulous candidate to public ridicule. The result was startling. Public questions were forgotten, while the people of the state were absorbed in the story of "the patch on Marcy's pantaloons." It is said that the story did not always work to his detriment, a rural elector having been heard profoundly to remark that "if Bill Marcy wore patched clothes," then Marcy was the man for him. Nevertheless, the victim of the incident found himself at a loss for means to counteract its effect, till he discovered, also among the accounts in the Morgan case, a charge for the "transportation" of his political enemy but personal friend, Thurlow Weed, to Auburn, which happened to be the seat of the state penitentiary. Taking this item as his text, Marcy contributed an article in his best vein to the Albany *Argus*, in which he declared that the people of the state could well have afforded to pay for Weed's "transportation" to Auburn, if he had only been permanently detained there. To the extent to which this good-natured rejoinder turned the laugh on Weed, Marcy's situation was temporarily mitigated.

In 1831 Marcy was elected to the United States Senate. He was not an orator; but his political experience, the breadth of his information, and the clearness and force with which he was able to express himself, soon caused him to be recognized as a worthy antagonist of Webster and other leading members of

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that great body. He was appointed chairman of the Committee on the Judiciary, and a member of the Committee on Finance. Unfortunately, however, a phrase which he used in debate gained great notoriety, and created in regard to his political views and action an erroneous impression which he afterwards strove to correct but never was able wholly to remove. This phrase was used in the animated debate on the rejection of Van Buren's nomination as minister to England, an act savoring of political revenge and specially humiliating, since its victim had reached his post in London and was actively engaged in the discharge of his diplomatic duties. The justification chiefly alleged for it was the charge that Van Buren was identified with the "spoils system," to which the "Albany Regency," of which he was the head, was supposed to be peculiarly addicted. Of that celebrated confraternity, Marcy, as state comptroller, Samuel L. Talcott, attorney-general, Benjamin Knower, state treasurer (whose daughter became Marcy's second wife), and Edwin Croswell, editor of the *Argus* and state printer, constituted, says Thurlow Weed, "with Van Buren as their chief, . . . the nucleus"; and, speaking further of his old political antagonists, Weed continues:

> After adding Silas Wright, Azariah C. Flagg, John A. Dix, James Porter, Thomas W. Olcott, and Charles E. Dudley to their number, I do not believe that a stronger political combination ever existed at any state capital, or even at the national capital. They were men of great ability, great industry, indomitable courage, and strict personal integrity. Their influence and power for nearly twenty years was almost as potential in national as in state politics.

In defending his political associates, and particularly his friend and leader, Van Buren, against the assaults of the Whigs, Marcy, while denying that they were peculiarly open to reproach, declared that the politicians of New York boldly preached what they practiced, and saw nothing wrong in the rule that "to the victor belong the spoils of the enemy." The use of this catching phrase Marcy lived to repent; nor did he ever cease to repel the interpretation popularly placed upon it. I have among my papers a copy of a carefully prepared memo-

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randum, in which he declares his dislike of the rule of proscription, of which he was himself an early victim, and refutes the charge that he was a "spoilsman" in that sense. Although it was his practice to appoint to office only persons of his own political faith, he affirms that, while he held the post of comptroller and had at his disposal more patronage than any other official of the state, he steadily refused to discharge men from the public service because of their political views; and that even when he became, as secretary of war, the center of partisan attacks growing out of the conduct of the war with Mexico, he retained in confidential positions near him men who were attached by political opinion and also by family connection to his political adversaries. In the Department of State he disturbed no man on account of his political convictions, and carefully preserved the organization of the department intact.

In 1833 Marcy resigned his place in the United States Senate to assume the office of governor of New York, to which he had just been elected. He held this office three terms, his majority at each biennial election successively expanding, until, in the autumn of 1838, he was defeated by William H. Seward. His fall was the result of financial conditions and of the unpopularity of the monetary policy of the national administration, at the head of which stood Martin Van Buren. Under pressure from Washington, Marcy reluctantly advocated and signed the law prohibiting the circulation of safety-fund bank notes under the denomination of five dollars. This measure proved to be most unpopular, the suppression of small notes resulting, not in the increased use of gold and silver, but in the flooding of the commonwealth with currency from other states and from Canada of variant and uncertain values. The state administration being thus placed at a disadvantage and exposed to popular disfavor, its decline seems to have been somewhat accelerated by the revival of the story of the sartorial patch, of which effective use was made for the last time.

On June 16, 1840, Marcy was appointed by Van Buren as one of the commissioners under the convention with Mexico of April 11, 1839, for the adjustment of claims. The duties of this position occupied him for two years, but he was destined for still further honors.

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In March, 1845, he became secretary of war in the administration of James K. Polk. Like all the other members of the cabinet, he received from Polk a letter pledging him, in case he should become a candidate for the presidency, to resign his place. After the lapse of little more than a year, the war with Mexico began. As has always been the case with the government of the United States, it was not prepared for the conflict, and the complex burden of enlisting and organizing a sufficient army was thrown upon Marcy's hands. The ability and skill with which he performed this task have been universally attested. He was not, it is true, wholly exempt from the loose charges of mismanagement, of inefficiency, and even of sinister obstruction of our own commanding officers in the field, which were circulated against the administration in connection with the conduct of the war; but, fortunately, they were at length concentrated in certain unconsidered letters which General Scott addressed to him, while he was still secretary of war. These charges and complaints, Marcy, by a letter of April 21, 1848, triumphantly answered. This great state paper was as famous in its day as was, in the preceding generation, John Quincy Adams's reply to Jonathan Russell in the celebrated Duplicate Letters. It became a common saying in New England, when an antagonist was annihilated, that he had been "Jonathan Russelled"; and for some years after Marcy's controversy with Scott, the letter of 1848 was cited as an example and a warning. It is, however, gratifying to narrate that, when these sturdy controversialists subsequently met, Marcy extended his hand, which the gallant and high-souled Scott, harboring no resentments, cordially clasped.

Between 1849 and 1853, Marcy held no public office. It was the longest period in his adult life in which he was not saddled with some sort of official responsibilities. He spent his time pleasantly at Albany in social intercourse with his political enemies as well as with his political friends, and although he continued to be active in politics, he read much, chiefly in historical works. One of his chief diversions was whist, at which he almost daily contended with his old political antagonist, Thurlow Weed. His reading was, however, ex-

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ceptionally extensive. When out of office, he was far from being a methodical man, and perhaps the nearest attempt he made at method was in his reading. He sometimes essayed to read regularly a certain number of pages a day, but he was too much interested in politics and too fond of the society of his friends to adhere rigorously to such a plan.

In 1852 he figured as a leading candidate for the democratic nomination for the presidency. As has so often happened with favorite sons of New York, his chief danger lay in a factious opposition in his own state. He had the warm and cordial support of such men as John V. L. Pruyn and Erastus Corning; but, unfortunately, Daniel S. Dickinson, who had a certain Southern support, particularly in the state of Virginia, could not rid himself of the hope that he might himself eventually obtain the coveted prize, if he could only succeed in blighting Marcy's chances. Before the convention met at Baltimore, an effort was made by some of Marcy's friends to effect an arrangement with Dickinson, under which the candidate having the strongest support outside of New York should have the unanimous support of the state delegation. Dickinson, according to Thurlow Weed, said in later years that, if this proposition had come to him earlier, before his friends had fully launched his candidacy, he would have accepted it. It is probable that this later impression was not well founded. Certain it is, as appears by the journal of Mr. Pruyn, the other state delegations stood ready to nominate Marcy if only they could be assured that the New York delegates had agreed to treat their divisions as being at an end. This step, Dickinson, who was a delegate, refused to take. "He would not," said Mr. Pruyn, "surrender his personal animosities toward Governor Marcy." The sittings of the convention, which began on the first of June, were protracted till the fifth of the month, when, on the forty-ninth ballot, the convention with practical unanimity suddenly nominated Franklin Pierce of New Hampshire. Pierce's vote on the forty-eighth ballot was 55; Marcy's was 90, the highest of any aspirant. In the conditions then existing, the nomination was equivalent to election, and Pierce was duly installed as president on March 4, 1853.

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In Pierce's cabinet, Marcy was called to the place of secretary of state, a post for which his experience in administrative positions, his wide reading and his unusually extensive information gave him important qualifications. His career as secretary of state was a great one. While strong in controversy, he never pursued it for its own sake, but devoted himself to the accomplishment of valuable results. At the very outset, he declined a suggestion of his predecessor in office for the continuance of a debate with France and Great Britain upon a proposed tripartite arrangement in regard to Cuba.

One of his earlier remarkable achievements was the conclusion of the Canadian reciprocity treaty of June 5, 1854. The negotiations, which were partly carried on at Berkeley Springs, West Virginia, were conducted on the part of Great Britain by Lord Elgin, who came to the United States as a special plenipotentiary. That the picturesque account of his lordship's clever attaché, Laurence Oliphant, of the signing of the treaty should be received with a grain of allowance, is to be inferred from the fact that he speaks of Marcy as a general in the Mexican War and represents him as having been a noted duelist. The effects of the treaty were mutually beneficial to both countries, and its termination at the close of the Civil War, on notice by the United States, was due to a combination of causes in which a feeling of resentment appears to have played an appreciable part. So long as the treaty lasted it provided an amicable working arrangement in regard to the fisheries, and if it had been permitted to continue in force, the statesmen of Canada of imperialistic tendencies would have found difficulties even greater than those that they actually overcame in bringing about the formation of the Dominion.

Another measure which Marcy sought to carry through was the annexation of the Hawaiian Islands. Almost fifty years elapsed before this conception of his far-reaching statesmanship was realized.

An important subject with which he dealt in an intelligent and practical way was that of the extradition of fugitives from justice. Prior to his time the Department of State had declined to enter into extradition treaties with countries that refused to surrender

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their own citizens or subjects. In many instances this refusal rested on ancient laws which were regarded as having a fundamental character. Marcy took a practical view of the subject. As governor of New York he had learned how undesirable it was to make one country the refuge of criminals from another country. He therefore decided, wherever it was necessary, to accept a mutual exemption of citizens or subjects from surrender. On this working basis he concluded numerous treaties, and gave to the development of the system of extradition in the United States its most decided early impulse.

He also initiated the movement which resulted in the abolition of the Danish Sound dues—that is to say, the dues which had been charged by Denmark on commerce passing into and out of the Baltic Sea through the Straits of Elsinore. His action on this subject led to the calling of a European conference, which, although the United States did not take a direct part in it, devised a general arrangement for the capitalization and abolition of the dues. It fell to his successor in the Department of State actually to sign the convention exempting American vessels from these burdensome exactions. But the draft was drawn and the work substantially completed before Marcy's retirement.

On all occasions Marcy took high ground as an advocate of the freedom of the seas and of the natural channels by which they are connected. He urged the free navigation of international streams, and the making of treaties to obtain it. When, toward the close of Pierce's administration, the United States was invited to adhere to the Declaration of Paris, he proposed, as the condition of adhesion, the exemption of private property at sea, except contraband of war, from capture, and believed that, if he could have remained at his task, he might have secured the general acceptance of the principle.

Three notable cases occurred during Marcy's term as secretary of state which I group together because they each contain a predominant personal element. One of these was the dismissal of Sir John Crampton as British minister at Washington. Sometime after the outbreak of the Crimean War, rumors became rife that a system of enlistments in violation of the

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neutrality laws was carried on in the United States under the supervision of the British minister and of certain British consuls. Precise proof of this fact was eventually disclosed in the trial at Philadelphia of a man named Hertz. The United States asked for Crampton's recall together with that of the implicated consuls. The British ministry procrastinated and objected until it became necessary for the United States to act for itself. This step was taken by Marcy not without pain and regret, for his personal relations with Crampton had been of the friendliest character. But, when brought to the point of action, he moved with firmness and resolution, sending to the minister his passports and revoking the exequaturs of the consuls at New York, Philadelphia, and Cincinnati.

Another celebrated case was that of Martin Koszta. This case is the source of a popular delusion which even high officials have occasionally seemed to share. Koszta was a Hungarian political refugee who came to the United States about the time of Kossuth's visit. After residing in the United States upwards of a year and making a declaration of intention to become a citizen, he paid a visit to Turkey. While he was in that country, certain agents of the Austrian government conceived the idea of securing possession of his person under the guise of the system of extraterritoriality which prevailed to a limited extent in the Ottoman Empire. Proceeding, however, in an irregular manner, they caused Koszta, while walking on the quay at Smyrna, to be seized and thrown into the water, where he was picked up by a boat's crew from the Austrian brig-of-war "Huszar," in which he was presently confined. Immediately afterward Captain Ingraham, of the U. S. sloop-of-war "St. Louis," sailed into the harbor and, learning that Koszta claimed American protection, instituted an inquiry; but, having subsequently received notice of a design to remove the prisoner clandestinely, before the investigation could be completed, he demanded Koszta's release, with an intimation that, unless the demand was complied with by a certain hour it would be enforced. Fortunately, an arrangement was then effected under which Koszta was delivered into the custody of the French consul-general, till the question should be adjusted between the

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two governments directly concerned. The Austrian government, strongly remonstrating, lodged a protest at Washington, in which it expressed confidence that the United States would disavow the conduct of its agents, call them to a severe account, and tender "a satisfaction proportionate to the magnitude of the outrage." To this protest Marcy replied in the celebrated state paper since known as the Koszta note, presenting a masterly review of the facts and the law, and expressing in conclusion the expectation that his Imperial Majesty would cause Koszta to be set at liberty. This note has been popularly supposed to have justified the protection extended to Koszta on the ground of his having made a declaration of intention to become a citizen of the United States. No supposition could be more completely unfounded. The declaration of intention was referred to by Marcy only as one of the proofs that Koszta had acquired a domicil in the United States. In reality, Koszta, when seized, was a protégé of the American consulate, a fact which, under the custom prevailing in Turkey and recognized by the powers, entitled him to the protection of the United States without regard to his original nationality. This was the ground on which his protection was in the first instance exclusively justified. Subsequently, the ground of domicil was introduced as an independent source of national character, in view of the fact that he had, as Marcy contended, been by a decree of banishment deprived of his rights as an Austrian subject and had not yet acquired by naturalization the rights of a citizen of the United States. In making this argument Marcy probably had in mind, although he did not mention it, a peculiar case of similarly exceptional circumstances, which came before him as a commissioner under the treaty with Mexico of 1839. It is gratifying to relate that the Austrian government eventually assented to Koszta's return to the United States.

The third case in which an individual bore a highly conspicuous part was that of the Walker-Rivas government in Nicaragua, an organization created and dominated by William Walker, once euphemistically heralded as the "grey-eyed man of destiny." Walker, who was of Scotch antecedents, exhibited, in singular union with extraordinary determination, a grotesque

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perversion of the adventurous spirit which has so often characterized the children of that interesting land. A physician by profession, but a filibuster by occupation, he was fanatically devoted to the idea of extending the domain of slavery. Landing in Nicaragua with a small band of recruits from the United States, he effected a junction with a disaffected revolutionist named Rivas, with whom he set up and operated a government. Of the manner in which this government was conducted, much favorable testimony has been adduced; but it aroused a feeling of universal horror and alarm in Central America, and was eventually overthrown through the patriotic sacrifice of Costa Rica, who made war upon it and brought it to an end. For a long while the Walker-Rivas government was not recognized by the United States, and its recognition was strenuously opposed by Marcy on the ground that the United States could not afford to expose itself to the suspicion of countenancing hostile expeditions organized in its own territory. Eventually, the President decided to recognize the government, and it was only the insistence of the President and his appeal to personal considerations that induced Marcy to remain in the cabinet. On a third filibustering expedition to Central America in 1860, Walker was seized and put to death. His surrender in Nicaragua on May 1, 1857, was afterwards annually celebrated in the Costa-Rican capital.

Marcy's state papers are distinguished by rare ability. In comprehensiveness of view, massive force of statement, strength of legal argumentation, and clearness and vigor of style, they stand unsurpassed in the records of the Department of State. Apart from what I had heard of him in my childhood, it was my own fascination with them, on my first service in that department, that led me to be specially interested in his life. Of these papers, the Koszta note is no doubt the one most widely known, but there are others that, in my judgment, surpass it. If I were asked to name my favorite, I should not hesitate to designate the note to the French minister, Count Sartiges, on the Greytown claims.

Greytown, a community then lying outside the acknowledged boundaries of Nicaragua, in what was known as the Mosquito

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Coast, maintained an independent existence under the authority of the Mosquito king, who was understood to enjoy the patronage of the British government. As the result of a controversy with Nicaragua concerning limits, which involved the question of jurisdiction over Punta Arenas, property belonging to the Accessory Transit Company, an organization of American citizens holding a charter from Nicaragua, was on various occasions seized or destroyed at that point by the Greytown authorities, and for these acts damages were demanded. There was, however, another complaint which was supposed to affect the "dignity" of the United States. At that time the United States was represented in Central America by a minister named Solon Borland, from Arkansas, a man of spirit who had served in the Mexican War. One day the Greytown authorities attempted to arrest the captain of an Accessory Transit steamer, then lying at Punta Arenas, when Mr. Borland happened to be aboard. The captain resisted, and, in the scrimmage that ensued, Mr. Borland seized a musket and gave to the captain successful support. Great excitement ensued at Greytown; and it was presently fanned to a flame by the announcement that Mr. Borland intended to call upon the resident United States commercial agent in the evening. A suggestion from the latter that this visit be considerately omitted, Mr. Borland, his blood still up, scornfully rejected; and, while he was in the agent's house, a violent commotion in the street denoted the presence of a mob. Mr. Borland, nothing daunted, promptly appeared in the gallery and warned the tumultuous assemblage to disperse. But his oratory was suddenly checked by a blow in the face from a bottle, thrown by someone in the crowd, who, after draining from the flask the last inspiring drop, used it as a missile. For the redress of these accumulated grievances Captain Hollins, of the U. S. S. "Cyane," was dispatched to Greytown. Lacking specific instructions as to procedure, he made upon the local community demands which it was either unwilling, or unable, or without adequate opportunity to meet, and, the time-limit having expired, first bombarded and then burned the town, utterly destroying it. This somewhat fierce and drastic punitive measure created a sensation throughout

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the civilized world. I have in my collections a pamphlet on the case, published in France, on the cover of which is an arm uplifted in vengeance and bearing an incendiary torch.

At the time when Greytown was destroyed, numerous foreigners were residing there, including some of British and some of French allegiance. Claims in behalf of the latter were promptly presented to the United States by the French government on the ground that the destruction of the place was unlawful and unjustified. Marcy, in his response, maintained that, as the claimants had settled in Greytown, they must be regarded as having committed themselves to its protection, so that, for any injuries they had suffered, they must look for redress to that community, and not to the United States or to any other country with which the local government had happened to fall into difficulty. The argument was marshaled with such crushing force that Lord Palmerston announced in Parliament that Great Britain would not present the claims of her subjects to the United States. The French claims were abandoned. I have reason to believe that Marcy himself considered his note in this case to be on the whole the most finished of all his diplomatic papers.

Any review of Marcy's eventful career as secretary of state would be palpably incomplete that failed to include his well known circular of June 1, 1853, in which, while conveying the expectation that a representative of the United States would, on the occasion of his reception, conform, as far as was consistent with a "just sense of his devotion to republican institutions," to the "customs of the country" wherein he resided and to the rules prescribed for officials of his rank, he announced that the Department of State would "encourage" on the part of such representative "as far as practicable, without impairing his usefulness to his country, his appearance at court in the simple dress of an American citizen." He added: "Should there be cases where this cannot be done, owing to the character of the foreign government, without detriment to the public interest, the nearest approach to it compatible with the due performance of his duties is earnestly recommended."

This circular, which marks, so far as the diplomatic service

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of the United States is concerned, the crest of the great democratic movement that culminated in the middle of the past century, was explained as reflecting "the simplicity of our usages and the tone of feeling among our people." With such a certificate of origin it produced, in the dovecote of those who aspired to further political honors at home, a flutter in which the latitude of action it allowed seemed to be quite overlooked. To its keen and clear-sighted author, whose sense of humor seldom flagged, this agitation must have furnished a certain amusement; but there can be no doubt that the circular expressed his inmost feelings. With the men of his time and his type, uniting with a sense of responsibility and entire self-respect an unaffected, rugged simplicity, democracy was not merely a cult; it was a creed, a faith, in which were bound up humanity's best hopes and ideals.

We have seen that Marcy possessed extraordinary vigor of mind; that he was a statesman of grasp and of vision; and that he bore through life an unblemished reputation. It is evident that he was as the world goes an honest man. In reality, although not deficient in shrewdness, he was remarkably tenacious of principle and sincere; incapable of playing the part of a *poseur*, of an apostle of cant. But, admitting all this to be so, did he measure up to the highest standard of integrity? Could it be said of him, as was said of another great public servant, "Statesman, yet friend to truth"? Was he free from that form of self-deception which, often facilitated by the emotions, deludes the promptings of justice and truth with the exalted phrases of patriotism and benevolence? Let him answer for himself.

During the administration of Pierce, the question of Cuba loomed large. Only a few years before, the United States had offered to purchase the island from Spain, but this offer had been indignantly repulsed. Subsequently certain disputes arose, one of which grew out of the seizure of the "Black Warrior," an American vessel, by the authorities at Havana. These controversies, combined with the desire for more slave territory, added much strength to the annexationist movement in the United States. Of this measure one of the leading ad-

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vocates was Pierre Soulé, a native of Brittany in France, who, after settling in Louisiana, became a senator from that state. Soulé was sent by Pierce as minister to Spain. The inner history of his mission to Madrid has never been written; but, in the midst of a violent agitation in the United States for the annexation of Cuba, the singular step was taken of instructing Soulé, together with James Buchanan, then minister at London, and John Y. Mason, minister at Paris, to repair to some place in Europe and, after conference, to make a report to their government on the Cuban question. They met in October, 1854, at Ostend, in Belgium, and duly formulated and submitted a report.

In this report, which is known as the "Ostend Manifesto," it was declared that "if Spain, deaf to the voice of her own interest, and actuated by stubborn pride and a false sense of honor, should refuse to sell Cuba to the United States," the time would then have come for the United States to consider whether Cuba in the possession of Spain seriously endangered "our internal peace and the existence of our cherished Union"; that, if this question should be answered in the affirmative, "then, by every law, human and divine, we shall be justified in wresting it from Spain, if we possess the power"; and that we should be "recreant to our duty—be unworthy of our gallant forefathers, and commit base treason against our posterity, should we permit Cuba to be Africanized and to become a second St. Domingo."

When Marcy received this report his official comments upon it were as parsimonious as they were quiet and effective. In a dispatch to Soulé, he remarked that the language of some parts of the report might perhaps be so construed as to convey the inference that the United States was "determined to have the island," and would obtain it by other means, if efforts to purchase it should fail; while other parts of the report repelled this inference. On this he would, he said, only remark that while the "acquisition of Cuba by the United States would be preëminently advantageous in itself and of the highest importance as a precautionary measure of security," yet the failure to obtain it by cession "would not, without a material change

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in the condition of the island, involve imminent peril to the existence of our government."

Such were his conclusions as formally expressed. Not long afterward, however, in the freedom of private correspondence, he gave full vent to the feelings by which those conclusions were inspired. In a confidential letter addressed to L. B. Shepard, a friend in New York, he said:

I have not time to say much, though I have much to say, on the subject to which your letter of yesterday refers.

I am entirely opposed to getting up a war for the purpose of seizing Cuba; but if the conduct of Spain should be such as to justify a war, I should not hesitate to meet that state of things. The authorities of Cuba act unwisely, but not so much so as is represented. They are more alarmed than they need to be in regard to the dangers from this country, though it cannot be said that the filibuster spirit and movements do not furnish just grounds of apprehension. They have a clear right to take measures for defense, but what those measures may be it is not easy to define. In exercising their own rights they are bound to respect the rights of other nations. This they have not done in all cases. That they have deliberately intended to commit wrongs against the United States I do not believe; but that they have done so I do not deny. The conduct of Spain and the Cuban authorities has been exaggerated and even misrepresented in some of our leading journals, particularly in the *Union*. I cannot speak of the views of the conductors of the latter paper, for I have little or no intercourse with them. From what I have seen of it, I am not much surprised at the opinion that it is for war, right or wrong; but I venture to assure you that such is not the policy of the Administration. It does not want war, would avoid it, but would not shrink from it, if it becomes necessary in the defence of our just rights.

The robber doctrine I abhor. If carried out it would degrade us in our own estimation and disgrace us in the eyes of the civilized world. Should the Administration commit the fatal folly of acting upon it, it could not hope to be sustained by the country, and would leave a tarnished name to all future times.

Cuba would be a very desirable possession, if it came to us in the right way, but we cannot afford to get it by robbery or theft.

On leaving the Department of State in March, 1857, Marcy contemplated a voyage to Europe in company with the late

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Hamilton Fish, afterward secretary of state, who was then on the point of making a two years' sojourn on the continent. Marcy and Fish had always been political antagonists, their correspondence having begun with Marcy's refusal, as governor, to appoint Fish a commissioner of deeds for the city of New York; but they became warm personal friends. At the beginning of July, 1857, Marcy, who had been at Saratoga Springs, started towards New York. On the 4th, he stopped at Ballston Spa. For some time he had occasionally felt in the region of the heart a troublesome disturbance, which the exhausting effects of the warm weather seemed to aggravate. Feeling weary, he lay down on the bed in his room at the hotel, with a volume of Bacon's Essays in his hand, and as he read it he suddenly entered upon his last sleep. A servant, on entering the room some hours later, found him lying with the volume still in his hand, open at the place at which he had been reading. Himself a man of singular strength and wisdom, he spent his last moments on earth in communion with one whose words are the common treasure of mankind.

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# SECTIONAL ASPECTS OF NEW YORK PROVINCIAL POLITICS

IT is the purpose of this paper to notice certain phenomena in the political development of New York between 1691 and 1760. Antagonisms resulting from conflict of interests and attendant jealousies between different regions of the province were important features of that development. These phenomena constitute one aspect of the sectionalism which is now recognized as having contributed to the character of the complex movement of the American Revolution. In New York this sectionalism was not so sharply accentuated as in some of the other provinces. Nothing like the situation which gave rise to the Regulator troubles in the Carolinas, or to the outbreak of the Paxton Boys in Pennsylvania, was true of New York. Nevertheless, the divergent views as to provincial policy held by the commercial seaboard on the one hand, and by the agricultural and frontier interior on the other, were by no means without effect upon the political life of the province. Other antagonisms between regions of differing economic significance and between different social classes combined to form the material of the active, and usually intensely local, schemes of provincial politicians.

The spirit of localism, probably always characteristic of young and rapidly-growing communities, was a leading trait in the life of the colonies. By contemporary imperialists, both English and American, it was regarded as the besetting vice of the American portions of the British Empire in the eighteenth century. Complete and systematic treatment of the subject of sectionalism in all its aspects in provincial New York is as yet hardly possible. Its various features were numerous and often closely interwoven. Patient and minute analysis of the material at present accessible may be expected to yield much. It is devoutly to be wished that sources in the nature of private papers and correspondence may yet come to light which may admit us to a more intimate acquaintance with the motives which lay



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beneath the surface of many an important movement. In the survey which is here presented attention will be particularly directed to three features of New York provincial politics in which sectional antagonism is reflected. There was, in the first place, a struggle between New York city as the commercial metropolis and the rest of the province as a producing region, in which the city was definitely worsted. This was in the last decade of the seventeenth century. Secondly, throughout the whole provincial period the distribution of the weight of taxation was a matter of conflict between the commercial and landed interests, in which the latter on the whole had their way. And, finally, the matter of apportionment of representatives and of direct taxes among the counties furnished a perpetual scene of struggle between localities. The period especially observed is that between 1691, when a representative legislature was given a permanent place in New York institutions, and the close of the fourth intercolonial war. It was during this time that the struggle between royal governors and a popular assembly developed the actual structure of New York's provincial constitution.

Certain general conditions characteristic of New York should be noticed, as the background for the development of the practices which were the "politics" of the province. The topography was peculiar. The shape of the territory bore a rough resemblance to the letter L. Long Island corresponded to the horizontal portion, while the vertical line was represented by the two strips of land on the the banks of the Hudson between New York city and Albany. As regions of settlement, these strips extended twenty miles on each side of the river for the whole of its course between the two cities. From Albany, at a right angle to these two strips, ran the course of the Mohawk river. At the beginning of the period, occupation of this region had reached no farther than Schenectady, and relations with the French and Indians made the progress of occupation for the fifty years after 1690 rather slow. The region on the banks of the Hudson was the scene of greatest activity in "peopling" the province. Manifestly, for this part of the province New York city was the natural point of concentration for commerce with the rest of the world. It is equally obvious that the city

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was far from serving Long Island with like adequacy, and this fact, as will be seen, figured in the politics of the period.

So far as effect on political life was concerned, conditions as to racial distribution and social structure were also peculiar. The fact that New York was acquired from the Dutch by conquest gave rise to comparatively few problems for politics on a purely provincial scale. Nicolls, Lovelace and Andros had quite as much trouble in settling affairs with the Long-Islanders, predominantly of New England stock, as in adjusting matters with the Dutch of the Hudson valley and Albany. The cosmopolitan character of the population of New York city was noted by Dongan; but the situation of his master, the Duke of York, made the policy of toleration in religious matters, necessary under the circumstances in New York, comparatively an easy matter. Though Albany itself was inhabited almost wholly by Hollanders, the region of Esopus (Kingston) contained French, German and Swiss admixtures with the prevailing Dutch population. The racial and confessional characteristics of the different regions seemed to the people themselves less important than those which affected economic life. As they viewed the province, Long Island could depend on "husbandry and whaling; Sopus was the fat of the land by tillage; Albany had the Indian trade and husbandry; while New York city had no other advantage but trade." The Dutch had estimated the importance of the city and its trade so highly that the "planters" had been forbidden to trade overseas, and had been required to pay one-tenth of their produce to the government. Only the people of Albany were permitted to engage in the trade with the Indians.[1] The Leisler affair was far more the result of a collision between conservative and radical temperaments and prejudices than of any conflict of races.[2] The growth of population in the eighteenth century was characterized by no such volume of immigration from Europe as happened in Pennsylvania. Some Germans, some Scotch, many from Long Island and from New England helped to "seat" the river counties, but the newcomers did not settle

[1] Minutes of the Common Council of the City of New York, i, 149–50.

[2] Osgood, iii, 457.

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in such a way as to affect the course of politics into which the province settled after the Peace of Utrecht. This political development took place largely over such matters as the control of provincial revenue and expenditure, maintenance of defence and Indian relations and support of provincial government. But it was in connection with just such matters that the metropolis and interior frequently took opposing views. The first open conflict between them came, however, upon a matter which directly concerned general economic policy. And it is probably not without significance that this struggle between interests of a sectional character came to a head very shortly after the permanent establishment of a representative legislature.

## I

This contest was concerned with a question which is of fundamental importance in a developing country, namely, the relation between the headquarters, or metropolis, and the outlying and expanding portions of the province. The preëminently commercial character of Dutch policy had been made evident both in the emphasis laid on the fur trade and in the pains taken to develop New Amsterdam's general commercial possibilities. Certain aspects at least of this latter feature were continued under English rule. In particular, the trade with the West Indies in flour and biscuit received especial encouragement. To this end it was essential that the standard of quality in the New York product should be maintained at such a point as to sustain the competition of the neighboring colonies on the continent. For this purpose the privilege of bolting and packing flour and baking biscuit for exportation had been confined to New York city. Only thus could the inspection which was necessary to protect the flour against adulteration be carried out. The privilege was conferred upon the city by the governor and council in 1680, and was enforced by the city by the seizure of flour imported into its limits for sale and exportation. The expediency of this monopoly was held to be demonstrated by the occurrence of complaints from the West Indies when occasionally the enforcement of the privilege had been relaxed.

The city's bolting and packing business had naturally thriven

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so that by the last decade of the seventeenth century it was asserted to be the corner stone of the city's prosperity and to furnish occupation for at least six hundred families. Moreover, this monopoly came to be asserted categorically as one of the liberties and privileges recognized and secured by the city's charter.[1]

There is little articulate expression of the sentiment of the "planters" toward this municipal privilege in the material at present accessible. However, rural resentment at exclusion from direct participation in the intercolonial trade in breadstuffs had become sufficiently formidable in 1691 to find expression in a suit against the city, brought by Jacob Rutsen, a leading planter in Ulster county. By the end of 1692 the supreme court of the province gave an opinion in favor of the city's privilege. But Rutsen was ready and able to push the matter to extremes. His attorney, William Nicoll, was prominent in the councils of Governor Fletcher, and according to Rutsen's deposition, made in 1698, Nicoll agreed either "to prevail to get an act passed to deprive New York of the sole liberty of bolting flour or carry the cause to England."[2] We are not informed of the reasons causing Nicoll to choose the former method, but in the spring of 1694, the assembly passed an "Act against unlawful by-laws and Unreasonable forfeitures," which passed the council by a vote of seven to three, and duly received the governor's assent. Furthermore, it was confirmed by the Privy Council in England within three years. This prompt confirmation was presumably the result of Nicoll's exertions in its behalf when he was in England as agent for the

[1] Minutes Common Council of N. Y, I, 80, 94, 99, 130–5, 141–2, 149–50, 152.

[2] The consideration in this affair was £400. The respective shares of the governor and councilor, Nicoll, in this sum, and the question whether it was more in the nature of a bribe paid to officials, or of a fee paid to a lawyer, were matters of dispute among those concerned. There seems to have been no doubt that the "undertakers" for the money afterwards "jumbled it with the public tax of Ulster County . . . which swelled it so high as had well nigh occasioned a mutiny." The £400 should be compared with £106, the value of a gold cup presented to Fletcher by the Common Council of New York city, with its address for confirmation of privileges! Min. Com. Council, I, 230–36, 272, 280–1, 309, 311–13, 326–8. Cal. St. Paper, Am. and W. I., 1697–8, 593, i, ii, iii. N. Y. Col. Docs., IV, 223, 332.

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province, jointly with the collector, Brooke. The political power of the interior, recently acquired through the establishment of representative institutions, had thus been shrewdly and vigorously wielded.[1]

The "Bolting Act," as it was colloquially termed, stigmatized the city's by-laws, enforcing its privilege, as "unreasonable . . . and of pernicious consequence to all . . . the subjects of the province," and declared such "pretended by-laws of New York city," or any other rule of like nature to be void and of no effect. It was thus a definite assertion of the refusal of the interior to acquiesce in a monopolistic privilege of the metropolis. In spite of the latter's defence of its privilege on the ground of its necessity for the trade of the province as a whole, as well as of its own interest therein, the interior used its power as it saw fit. It had the votes in the House of Representatives —fifteen to four, or, at the least, eleven to eight, if we may imagine Kings and Richmond counties standing with New York city in this matter. And in its control of the purse, the House of Representatives had the means whereby to extort from the governor a consent to laws, as a price for grants of taxes, without which he could not defend the province. It was an earnest of the whole future of constitutional development in the province.

The city by no means submitted without a struggle. In 1697 the mayor and council with great care drew up an address to the king. The "Bolting Act" was described as a threat at the interests of the province as a whole in the long run. It was also asserted that it would work great injustice to the city; heavy investments by numerous people had been made in the improvements of the metropolis, in the expectation that the privilege of bolting and packing would be a permanent feature of provincial policy. Bellomont, governor from 1698 to 1701, was addressed immediately upon his arrival to the same effect, and his interest was enlisted in a still more elaborate statement of the city's case, to be presented by the agent, Weaver, to the Crown.

[1] Col. Laws, I, 326–7; Journal of Assembly, I, 37–8; Journal of Legislative Council, I, 52. Col. Docs., IV, 322. Fowler's Bradford, cxxxvi, cxxxvii.

[2] Min. Com. Council of N. Y., II, 7–9, 36–48, 31-4. Great reliance was placed upon the precedent furnished by the law and practice of England. There, it was

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All this exertion was, as we have seen, too late, for the act was confirmed in June, 1697.

The struggle was continued, however, in another form. In the autumn of 1700, on the advice of the Recorder, the city council passed an ordinance levying an imposition on flour brought into the city from the country. The imposition was defended on the ground that the city's increasing "publick and necessary charge" should be borne in some reasonable part by the outsiders who were enjoying the benefits which its market afforded. This step, however, according to Bellomont, so "enraged the Country members of the House of Representatives (who were four to one) this last session, that they protested no money bill should pass till the ordinance were recalled." This

alleged, special restrictions were placed on the sale of corn, of which none was to be sold or even changed for seed except in open market. "In the whole world where there is Any Setled Government, Even under the barbarousest constitution there was never a greater Act of Improvidence than to take away the mercate of corne from one place without fixing it at some other certaine place." For then it would be impossible to use the laws against regrating and forestalling in restraint of those who for twenty or thirty thousand pounds might buy up all the corn and force the inhabitants to pay twenty or thirty shillings per bushel. Yet the "Country . . . is not Contented with anything Except all the principles of trade be reduced to confusion and every planter's hut become a market."

Reference was made to the experience of other colonies, such as Plymouth, Connecticut, Maryland and Virginia, "who for want of a Publick Mart like unto this Citty have very little shipping belonging unto them," and "cannot accrue to that benefit in trade by husbandry as this province." Such a trade center was also held to be essential to the subduing of the wilderness and peopling of the province, for without it "no man would be encouraged to improve more than what he had occasion for." (Here is the "new country's" idea of welfare, as opposed to imperial mercantilist purpose. In Maryland and Virginia, at least, the prospect of considerable towns was not welcomed by the mother country, the fear of development of colonial manufactures in such centers being chiefly before their eyes. Morriss: Colonial Trade of Maryland, pp. 69-70, 90.)

As to the injustice to the city itself, the act was described as taking away the livelihood of two-thirds of its eight thousand inhabitants, for the sake of thirty bolters in Kings, Queens and Ulster counties, whose combined population was represented as less than 500 families. Upon the city's trade, itself chiefly dependent upon flour, depended the revenue for support of government. And the city paid from one-fifth to one-third of the taxes recently levied for defence. It was the city which had gained credit and reputation for New York flour abroad. But now as a result of the "licentious bolting" and consequent adulteration, complaints had arisen in the West Indies and New York flour had sensibly declined in price. Min. Com. Council, I, 149-50, 311-13; II, 7-9, 31-98.

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complication proved to be fatal to the scheme of the city. The governor was immovably set on the construction of a fort in the Onondaga country, for which the grant of a tax by the assembly was absolutely essential. For the sake of this money bill Bellomont did not scruple to remove the city recorder in order to secure the repeal of the offending ordinance. Here again the interior's heavier weight of votes in the assembly, coupled with the governor's financial dependence on that body, secured a permanent decision in an important matter of general economic policy in favor of the interior rather than the metropolis.[1]

From the relations between city and country which have been recounted it is evident that these sections had acquired a distinct consciousness of separate and ofttimes conflicting interests. The situation offered opportunities for negotiations or "deals" between the parties in interest, and the following incident makes it apparent that these opportunities were not neglected. In the same session of the assembly in which the city had been foiled in the matter of the imposition on flour, an attempt was made to obtain legislation by which the city's revenue from the ferry to Long Island might be improved. Apparently the surest way to obtain the necessary votes from the country members for the proposition was the offer of city votes for a measure in which country members took a special interest. At all events a bargain of this character was made. The "country" measure for which city votes were pledged was a bill which purported to give legislative sanction to a land fraud which involved a considerable area. It was in the form of a private bill, and the injured parties alleged that serious irregularities in the procedure of what corresponded to a Land Office in the province were thereby confirmed in effect. They further accused the managers of the transaction in the assembly of grave errors in parliamentary procedure. The bargain failed of consummation at this session, owing to the unexpected defection of one of the city members. One of the defenders of the deal was loud in condemnation of this recalcitrant member, and on being taxed with the injustice of the land-fraud bill, admitted it without a

[1] Min. Com. Council, II, 113-15, 119-21; Col. Docs., IV, 811.

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blush but alleged that the governor, Bellomont, would never consent to it, but "would do anything for the city"! The significance of the incident is obvious. "Bi-partisan deals" and the "double cross" were apparently not unknown even at this early stage of "practical politics" in New York. It is perhaps not without interest to note that at the session in the autumn of 1701 the bargain was finally put through and both bills received executive approval, Bellomont having died and his place being filled by the more complaisant lieutenant-governor, Nanfan.[1]

We have no authentic expression from the interior itself of the views on provincial policy by which it was animated. Cornbury, a governor who was dominated by a "ring" of city merchants, interpreted the situation in 1708 as follows: "They don't care what becomes of the city provided they have goods cheap. They think the more goods are brought in the cheaper they will be no matter whence they come nor how much the trade of the province is destroyed." This particular expression was apropos of another feature of intercolonial commercial policy which had been reversed since the establishment of an assembly in which votes from the rural regions predominated. But it voices equally well the general disdain of the merchants

[1] The following is from the deposition of David Jamison, one of those injured by the land bill referred to above. "The petitioner was in company with Mr. Isaac DeRiemer an Assemblyman from the city of New York . . . where a stranger from Connecticut was present and asked Mr. DeRiemer what good they did by their long sessions of Assembly for themselves or the Country, to which he replied that very day they had brought a very good thing almost to pass for the city of New York which was all hindered by one of the city members who was born and brought up amongst them. The stranger did ask what was that. This DeRiemer being Mayor of the city told him that they proposed a Bill touching the Ferry and to secure the trade of the city with sundry privileges; that they had bought some votes of the Country party to it, particularly Jacob Rutsen's vote, on condition that the city members gave their votes for a Bill of his bringing in about Waghaghkemeck and that Rutsen for all he is so great a Rogue was true to them and that they had carried it but for the vote of Alderman Lewis who is a Captain and Alderman and born in the city and deserves to be stoned as he walks the streets. The petitioner then said, But Neighbor DeRiemer don't you know that part of that land belongs to me, how come you to make Merchandise of my Estate to serve the City's interest? To which he Replied, he knew that but that the Lord Bellomont had given them assurance that he would never pass that Bill about that Land, I'm sure he'll not pass it, he only lets it go so far in favor to the city at my request and would do anything for the city but we are not our own friends." C. O. 5, 1047 f. 634, Col. Laws, I, 449–51.

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for the "Country's" crude notions concerning commercial policy, such as had been expressed in the Bolting Act.[1]

It is inherently probable that it was a general prejudice against monopoly which figured most prominently in the rural mind. There is much force also in the suggestion of James Graham, leading lawyer and prominent politician, in a letter to Blathwayt in 1698. Commenting on the wide-spread aversion to renewing the revenue, he describes the popular doctrine as follows: "If the revenue is extinguished, then there will be no necessity for a monopoly of port privileges for New York city, and every creek and bay will be a port." This doctrine, he said, was "very taking," by reason of the increase in local prosperity which had befallen many small places since the city's monopoly of bolting flour had been extinguished.[2] The significance of this general rural sentiment hardly needs emphasis. "Every creek and bay a port" seems to have been a slogan of like attractiveness with "every planter's hut a market for corn." The city's main argument for the general expediency of its exclusive privilege had been its necessity for the purpose of maintaining *in the long run* the reputation of New York flour in the West India market. The monopoly was an administrative necessity incidental to the process of inspection. The interior was willing to take the chances as to the long-run result and infinitely preferred to contemplate the immediately-appearing local consequences. Nor did time or experience appear to alter this determination. Resolutions declaring the necessity of regulating and inspecting the quality of flour passed the House in 1727 and in 1728. The subject was mentioned in the governor's speech to the assembly by Cosby in 1734, and by Clarke in 1736 and 1741. Upon these and other occasions bills were introduced "for preventing the exportation of unmerchantable flour." Not only adulteration, but also frauds in the tare of casks were the subject of complaint. Such bills, though pre-

[1] Cornbury even suggested a re-apportionment of seats which should give to New York city as many representatives in the assembly as all the rest of the province combined. Only thus, he believed, could the repeal of the Bolting Act be obtained. Col. Docs., IV, 1180; v, 58.

[2] Col. Docs., IV, 375.

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pared usually according to the order of the house by the members from the city, were never advanced beyond the stage of second reading. Evidently the interior was immovable.[1]

## II

The history of the Bolting Act furnishes the most conspicuous example in the period under consideration of antagonism between metropolis and interior in a matter of general economic policy. Of corresponding significance is the conflict between the commercial and landed interests in connection with the support of the provincial government. The contest was practically a competition in dodging the burden of this support. Lieutenant-governor Clark in 1738 referred to the long-standing complaint of merchants that "imposts upon trade" had always borne the whole expense of supporting the government. They had "often try'd to get it eas'd by laying some tax on lands, but the Country members are too great a Majority against it."[2] This succinct description is on the whole sustained by the facts in the case. The provision for the support of the provincial government was colloquially termed "The Revenue," and from 1691 to 1709 consisted of the proceeds of the excise on the retail sale of liquors and of duties on imports and exports. In the period just mentioned, the assembly had granted the revenue on five separate occasions for terms of two, three and five years. Furs were the only article of export on which duties were laid. The import duties fell chiefly on wines, spirits and "European goods," especially the varieties of the latter which were suitable for the Indian trade. Very little information is available concerning arguments which may have been employed against the policy of granting trade duties as the source of government support. The debates in this period seem more often to have been concerned with the length of time for which the grants should be made. Against the position that such duties offered the "easiest way" we find only one protest from a source of any importance. A pamphlet issued by William Nicoll in the

[1] Journal of Assembly, XX, i, 563, 577, 605, 654, 659, 662–3, 689, 736, 738, 807, 809.

[2] Col. Docs., VI, 116.

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election campaign of 1699 vehemently denounced all restrictions on trade. "The Custom-house at New York has contributed more to the upbuilding of Philadelphia than all Mr. Penn's interest and artifice, which is not a little. . . . Experience of all times and places from Tyre and Sidon, the Hanse Towns, Civita Vecchia and Rhode Island [!] teach the lesson of encouragement of trade."[1] The circumstances of this election of 1699 cast some doubt on the entire sincerity of this passion for free trade in the abstract, as a responsible utterance of the class to which Nicoll belonged. He himself was too well-informed to believe that the home government would permit the civil list to be cut down to the point at which the excise alone could carry the expense, as this pamphlet proposed. But the political situation of the provincial faction of which Nicoll was a leader demanded at all costs the defeat of the "governor's interest" at that election. And the suggestion in the pamphlet shows at least that there was a sentiment in the province to which such a proposal would appeal.

As it happened, this particular election was won by the "governor's interest," and the revenue was continued for a term of six years, and in 1702 for three years longer. By the time these two grants had expired—in 1709—a complicated crisis had arisen in provincial politics, of which the question of a revenue was only one feature. The struggle dragged on for six years, and the efforts of the mercantile class to place the burden of support elsewhere than on trade exclusively, bore a leading part in the contest. The attempt, however, was in vain. Participation in the fruitless Canada expeditions of 1709 and 1711 required the imposition of heavy direct taxes, and resort to this method of supporting the government, even in part, was thus impracticable. By 1714, payment of the long-accumulated debts of the province by an issue of bills of credit "swallowed up" the excise for twenty years in advance, as security and sinking-fund for the paper currency. Further, when a general settlement of the whole crisis was at last reached in 1715, the omission of the export duty on furs and of the special rates of

[1] C. O., 5, 1092 ff. 122–5.

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duty on importation of goods for the Indian trade showed the dominance of the interests of the interior. Not only should trade bear the burden of supporting the provincial government, but it should be that portion of trade in which the interior had only an indirect interest. In an election "Address to the Inhabitants of Westchester County" in 1713, it was admitted that the duties on trade would be shifted upon the consumer by the importing merchant. But great stress was laid on the point that the articles thus affected were not those in whose use the ordinary citizen need be much interested. It will not be the "sober, industrious, prudent or needy part which will bear the charge. Those who can satisfie themselves with homespun and use cider, beer and such spirits as we can distil from our own produce will be free from paying anything towards support. . . . The burden will only lie on those best able to bear it—gentlemen of estates in towns and cities and rich farmers in the country."[1]

In the light of these circumstances, the method of provision for the expenses of government by trade duties may fairly be described as a policy deliberately adopted in the interest of the more newly-settled, expanding interior, at the expense of the town-dwelling and "trading" interest—"those best able to bear it." Moreover, this characteristic of the system of government support, developed in 1715, was permanently retained. Thereafter, the controversy upon the subject centred almost wholly about control of expenditure and the length of the term of the revenue. In placing the weight of the burden of support the interior, as in the affair of the "Bolting Act," made its will prevail over the more commercially-minded metropolis. Further on in this survey we shall have occasion to observe the attitude of the interior towards the metropolis in connection with the apportionment of direct taxes.

## III

So far in speaking of the "interior," the reference has been to the whole region outside of New York city and its immediate environs. There was one portion of this extra-metropolitan

[1] C. O., 5, 1050; Aa, 131.

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territory which developed a special and local consciousness. During the quarter of a century after 1691 a condition developed in Long Island which amounted to an antagonism between that region and the rest of the province, especially the metropolis. At all events, a feeling of grievance on the part of the island against the provincial government found expression in the political crisis of 1709 to 1717. The expression was, it is true, ineffectual, but a strong emphasis on sectional feeling is reflected therein. There was always a certain element of separateness from the rest of the province in the social structure and political ideals of the Long-Islanders. This was in part a natural result of the New England origin and political attachment to Connecticut which was especially characteristic of the eastern part of the region. This tendency was strengthened as to trade connections by conditions of topography. For the exchange of whale products and grain for European goods, the voyage to Connecticut or Rhode Island ports was so much shorter than the one hundred and fifty miles to New York that compulsion to use the latter place as their entre-pôt involved nothing but oppression in their eyes. Yet the course of legal trade required all entries and clearances to be made at New York city. The arrangements made by Dongan for a port at the eastern end of the island seem to have been dropped, for at several different times after 1691 petitions were addressed to the governor and council, asking for the establishment of ports for entry and clearance, both at Oyster Bay and at the eastern end of the island. No action was taken in response to these petitions, though it was asserted by the towns in Queens county that the expectation of a port there had been one of the conditions of settlement.[1] Under these circumstances it is hardly surprising that "illegal trade" of all sorts flourished, and that the inhabitants were in exceedingly bad odor with the governors. Bellomont referred to Long Island as "lawless and desperate," a "receptacle of pirates." He seems even to have cherished the notion of sending one hundred soldiers and quartering them

[1] Journal Legisl. Council, I, 52. Exec. Council Min. 8: 99. Col. MSS, XLII, 163; XLVI, 76, 110, 111.

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in certain towns which "make it their daily practice to receive ships and sloops with all sorts of merchandize, though they be not allowed ports."[1] Cornbury was not less unfavorably disposed, and at certain times employed a sloop to cruise in the sound to "hinder illegal trade . . . carried on at the eastern end of Long Island."[2] Considering the extent and character of the island's shore line it is evident that only a coast guard of such numbers and efficient organization as nowhere existed at that time, would have sufficed. Naturally the activity of Cornbury's occasional sloop was regarded by the Long-Islanders as a piece of sordid oppression by "Subtil Fellows inspecting into every nice Point in the Law and If they were not fulfilled and observed in every particular, vessels were seized." Such was the view reflected in a speech in the assembly by Samuel Mulford of Southampton, in 1714.[3] With passionate indignation he gave instances of pettifogging persecution by officials, not without accompaniment of blackmail, and of intolerable delays in the custom house at New York. The speech probably embodied the feeling of the whole island, namely, that they were practically deprived of the means of legitimate trade and were thus so discouraged that many sold out and moved away.

New York's monopoly of port privileges was resented by Long Island in much the same spirit as had been shown in the interior's attitude towards the bolting privilege. In both issues the metropolis was held to be engrossing a privilege participation in which should be common to all. Long Island's resentment, however, was directed against a feature incidental to the working of the provincial government as a whole. Mulford's speech was made in the course of general opposition to the renewal of the grant of the revenue for the support of govern-

[1] Col. Docs., IV, 516–17, 591.

[2] *Ibid.*, 1058, 1155, V, 58. Exec. Council Min., 9: 110, 174, 283.

[3] "Our vessels being thus carried and drove away, we had not vessels to carry the growth of the country to a market, nor bring us such goods as we wanted." The case of Southold he describes especially, "wheat at Boston being at 5/6 per bushel, and at New York only 3/4 they couldn't carry it to Boston, nor was any vessel able to come to them thence, and not any coming to them from New York, their wheat and grain lay by them till the Vermin Eat and Spoiled it." C. O. 5, 1051. Bb. 64.

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ment. Struggle over this matter went on for a period of six years after 1709. During this time governmental expenses were in large part carried on the governor's credit, and in the course of the contest all possible sources of revenue beyond the reach of the assembly were developed. Among such stray items were the claims to rights in connection with the whale fishery, and to the payment of quit rents on grants of land. Long Island was of course especially interested in the former matter, which had been a subject of contention in Cornbury's administration. The crown's regalian right in this matter having been questioned by the Long-Islanders, Hunter, governor from 1710 to 1719, could hardly omit asserting it at a time when support of the royal government in the province was being withheld by the people's representatives. In prosecution of its claims, Mulford was the especial object of the government's attacks. He was subjected to suits in connection with the whale fishery and with the quit rents. His speech in the assembly in 1714 not only voiced these especial grievances of Long Island but also embodied an able and thorough-going attack on the whole conduct of the provincial government as "arbitrary." Having subsequently printed this speech, Mulford in 1715 was expelled from the House. All this apparently nerved him, at the age of seventy years, to brave the terrors of an ocean voyage and to seek relief at the court of Great Britain. Here he displayed an activity which belied his years,[1] and, though he was unsuccessful in his crusade against the "arbitrariness" of the provincial government, a workable arrangement was finally effected in regard to the whale fishery. For our purpose, the most important incident in his career in England was his distribution to members of Parliament and to the public in general of papers which aired the whole of Long Island's grievance. In an elaborate Representation and Memorial he expressly accused the governor of manipulating the apportionment of representatives and of taxes in a manner oppressive to Long Island, and declared that as the result of the interested designs of "most Subtil

[1] C. O., 5, 1051. Bb, 51–2, 54–6, 116, 121.

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men," the colony "is miserably distressed if not vassalled," by being made "tributary to barbarous heathen."[1]

The latter charge amounted to a challenge of the general policy towards the Indians as it had been so far pursued by the provincial government. This policy had the support of the imperial authorities and of interested New York and Albany merchants, and the challenge was hopeless. As an instance of another aspect of sectionalism it is important, but the subject is too complicated for more than the barest notice in this connection. From the tone of the Memorial it is evident that the corrupt exploitation of the Indian situation by the Albanians, for their own local advantage and at the expense of the rest of the province, was a grievance of equal weight in Mulford's mind with the character of the policy as a whole. Much of the proceeds of taxation and an ominous share of the alarming provincial debt were accounted for by the demands of these Indian relations and abortive expeditions against the French. From the circumstances of the situation, the services for which these taxes were voted and the debt was piled up were performed by residents of the Albany region. These, according to Mulford, thus received a double benefit. Upon Long Island, however, itself in no danger, fell the weight of heavy taxation without any feeling of adequate compensation therefor. It was this aspect of the situation which sharpened the feeling of grievance with regard to the apportionment of seats in the legislature and of quotas of direct tax.

In support of his complaint concerning apportionment Mulford cited figures which seemed to bear out the charge of oppression. He first called attention to what seemed to him a fundamental anomaly, namely, that counties differing widely in numbers of inhabitants had, nevertheless, equal representation in the legislature. Comparing them on the basis of the number of white males of military age, Orange county with 65 men, Richmond with 350, Suffolk with 800, and Queens with 1000,

[1] "Capt. Mulford's Representation against the Government of New York. A Memorial of Several Aggrievances and Oppressions of His Majesty's Subjects in the Colony of New York in America." Doc. Hist. of N. Y., III, 363–71. "An Information." *Ibid.*, 372–383.

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had two representatives each. But Kings, Queens and Suffolk counties, numbering 2220 men, paid quotas amounting to £2055 in a direct tax of £4000, whereas the rest of the counties, with 3465 men, paid only £1945.

> Albany, Orange, Ulster and Dutchess counties, with ten representatives don't pay as much tax as one county on Long Island, where they have but two from each of the three counties and where very little of the proceeds of taxation is spent, whereas up the river most of the public money is spent, and the inhabitants charge twice as much for the services as they would in other parts of the colony.

The Memorial definitely ascribes this "unequal taxing" to the "disproportion of Assemblymen," and boldly declares that though it were "a privilege to have an Assembly if it were as near as may be according to the number of people in each county," yet, "to have the name and not the nature is but a snare to the greatest part of the people." Defects in the system of representation were asserted by Mulford to be the means whereby the "Minor Part" were able "for their Interest . . . to oppress the Major Part." As this matter of apportionment is always an occasion of sectional conflict, it is worth the trouble of an examination.

The Memorial in several passages sets forth, as the ideal principle, representation of the counties in strict proportion to population.[1] As a matter of fact, however, this principle found but imperfect expression in the system followed in New York. Roughly speaking, the fundamental idea of the scheme was the provision of two representatives from each county. This would seem to mean the recognition of a territorial unit of administration as the basis of representation. But population was not disregarded in practice. It was not until 1715 that Ulster, Dutchess and Orange counties, comparatively thinly-peopled regions, were accorded their full number of two delegates each. Moreover, the peculiar characteristics of each region were responsible, apparently, for significant variations from the general plan of equality between territorial units. New York city, for

[1] Doc. Hist., N. Y., oct. ed. III. 365-6, 368-9.

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example, as the metropolis, sent four members. From the Albany region came not only the two members from the city and county of that name, but one member each from the extreme frontier town, Schenectady, and from the special jurisdiction of Rensselaerwyck, the manor of the most powerful landed magnate in the province. In 1717, an additional member from this region was sent by the newly-created manor of Livingston. And, before that, the delegation from Westchester county had been increased by the addition of a member from the borough of that name. In short, the provincial practice in this matter would seem to approximate much more closely to that of old England than to that of New England.

The plan of apportionment in New York seems to indicate an appreciation by its leaders of a problem which is of much practical importance in a growing country, viz., the rapid change in the relation of populations of different regions to the total population of the province. Careful inspection of the figures of population for the first half of the eighteenth century, by regions, seems to show that, leaving out Long Island, the interior of the province, as compared with the metropolis and its immediate environs, was far from being the object of unfavorable discrimination in the apportionment of representatives. In fact, if anything, the interior, apart from Long Island, was always over-represented. Long Island, however, both in rate of growth compared with that of the province as a whole, and in its proportionate position in the total population of the province, fell steadily behind during this period. Mulford's complaint in 1717 had especially emphasized the fact that the "river counties" and Albany were favored at the expense of Long Island. The enlargement of the numbers of the House from twenty-two to twenty-six, by the addition, under the governor's authority, of members from the northern part of the province, was an item in Mulford's indictment of the "arbitrary" tendency of the New York provincial government. But it was precisely in this "up-river" region that the "peopling" and "seating" process was chiefly in evidence. Whatever the political motives, and whatever the comparative population of regions at the time, the creation of seats in the House for this part of

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the province in the years from 1713 to 1717 in effect only anticipated a rapidly approaching condition of fact.[1]

The complaint of Mulford's Memorial was followed up by an attempt to re-arrange the counties on Long Island and to obtain an increase in the delegation from that region, but this attempt got no further than the second reading of a bill introduced in the House for that purpose.[2] Long Island was only kicking against the pricks. As a region of growth, the future was against it; in its dissent from the provincial policy as to Indian relations, it was in an equally hopeless minority.

The pith of Mulford's accusation in reference to the system

[1] In the following statement, "regions" are regarded as composed in this manner: Long Island—Kings, Queens and Suffolk counties; New York and vicinity—New York city and Richmond and Westchester counties; River counties and Albany—Orange, Ulster, Dutchess and Albany counties.

In the period from 1703 to 1723 the total population of the province increased by more than ninety-five per cent. The rate of growth of New York and vicinity just about kept pace with this, but this was due to the growth of Staten Island and the Westchester region. The city itself fell considerably behind the rate of increase for the whole province. The same was true to a much greater degree of Long Island, whose rate of growth for the period was barely seventy per cent. The "up-river" region, on the other hand, showed an average rate of increase more than double that of the province as a whole, the growth of Orange county being especially marked.

In the period from 1723 to 1749, the rate of increase for the whole province was eighty-one per cent, Long Island's rate being little more than one-third of this. New York and vicinity no longer kept pace with the growth of the whole province, though the city itself very nearly did so. The rate of increase in the "up-river" region, however, averaging the four counties together, was just about triple that for the province as a whole. Orange and Dutchess counties, especially the latter, were far in the lead of Albany and Ulster.

Inadequate as must be any merely numerical statement, certain important tendencies are apparent in the following table.

PERCENTAGE OF TOTAL POPULATION AND OF REPRESENTATIVES IN ASSEMBLY.

| | 1703 | 1723 | 1749 | 1703 | 1723 | 1749 |
|---|---|---|---|---|---|---|
| Long Island. . . . . | 46 | 38 | 26 | 27 | 24 | 22 |
| New York and vicinity . | 33 | 32 | 35 | 41 | 34 | 33 |
| River-counties and Albany | 20 | 29 | 37 | 31 | 42 | 44 |

[2] Journal of the Assembly, I, 395, 409.

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of apportionment was that it was directly responsible for the imposition on Long Island of an unjust share of the burdens of direct taxation. A tax on "estates reall and personal" was the usual financial recourse for anything outside the range of the expenses incident to the maintenance of the ordinary apparatus of government. The act granting a tax named the total sum to be raised, and then assigned a specific sum to each county as its share of the total levy. The assignment of these quotas was made by the House itself, or by its members sitting as Committee of the Whole. There is reason to believe that at all times the liveliest interest was taken in this business of assigning quotas, but as the practice of printing the division lists in the journal of the assembly was not taken up till 1737, we have no information before that date as to the maneuvers of the regions on this matter.

If Mulford could have established a connection of cause and effect between inequalities of representation and undue burdens of Long Island in quotas of direct taxes, his case for oppression might have been a fairly strong one. During the first quarter of a century after the permanent establishment of representative government in New York, direct taxes were an important feature of provincial finance. The occasions for their imposition were mainly connected with defence or maintenance of Indian relations, and therefore they did not make their appearance with regularity. The total of such levies for the first intercolonial war was about £25,000, and about the same sum was voted in connection with the Canada expeditions of 1709 and 1711. The annual average of these taxes for the years between 1691 and 1715 is something over £2700, whereas the revenue from the excise and from trade duties devoted to support of government, was described by the auditor-general as amounting to "about £4000 per annum."[1] It is impossible to be precise about these matters, but even these rough figures show how important direct taxation was in this early period of provincial development.

In answer to Mulford's complaint, however, the council and

[1] Blathwayt's Journal, III, 80–90.

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assembly categorically denied that a county's voting strength in the assembly had anything to do with the quotas of direct taxes assigned to it.

> Had the Assembly in their taxations considered only the number of representatives and not the wealth of the inhabitants represented, the grievance would have been more extensive and the complaint more just. The different taxations will continue as long as the counties are unequal in area, population and wealth.[1]

The implication is plain that however mixed might be the considerations which determined the assignment to a county of voting strength in the assembly, the county's taxable wealth was the measure of its share in the burden of a direct tax. Careful examination of the quotas of taxes compared with the quotas of the total population, as regards the several counties, reveals nothing in the practice of the province markedly inconsistent with this claim. But in the absence of reliable information as to the taxable wealth of the several counties conclusions must of necessity be somewhat vague. All that can be said is that in the more newly-settled and exposed regions the tax quotas were always lower than the population quotas, whereas the opposite conditions prevailed in the older, and presumably richer, regions. Probably the representation of the council and assembly, from which quotation has been made, embodied the theory of the matter, while actual practice afforded opportunity for exercise of the inclination, traditionally characteristic of rural regions, to transfer financial burdens to the commercial centers. The historian, Smith, incorporates in his text a tabular statement of the quotas of a tax, "to show the comparative opulence of the counties" at that time. Nevertheless, he feels obliged to add the following caution:

> To guard the reader unacquainted with the petty cabals of a distant colony and who may be deluded by the seeming precision of the quotas, it is proper to add that the members from the metropolis always complain of the intrigues of the country gentlemen in loading their city with a third part of the public burdens for the ease of their own

[1] C. O., 5, 1051; Bb. 148.

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counties: and that but for the fear of losing their bills in the council, which is generally composed of citizens of influence, a still greater share would fall upon that small island forming the city and county of New York.[1]

An instance of this disposition becomes available to us in connection with the taxes imposed at the time of the third intercolonial war. This was the occasion for repeated resort to direct taxation, from which the province had been practically free ever since the administration of Burnet, from 1720 to 1727. As these taxes were for the purposes of defence, it is possible that the old Long Island prejudice was responsible for the scheme of apportionment which was attempted. The practice of printing the division lists in the journal of the assembly, begun in 1737, now enables us to follow the maneuvers of the "petty cabals" to which Smith refers. The circumstances illustrate also the measures adopted by the commercial centers to defend themselves against discrimination, and reveal a feature of fundamental importance in provincial politics.

In February, 1746, a bill for £10,000 passed the House of Representatives. The quotas of the tax assigned by the bill were so apportioned that New York and Albany counties, comprising together about 32 per cent of the total population, were called upon to pay about 65 per cent of the total levy. To New York, with slightly over 17 per cent of the population, was assigned 44 per cent of the tax; while the quota of Albany, with 14 per cent of population, was a little over 19 per cent.[2] The division lists show that this was the result of a combination of the rest of the province against New York and Albany, which were joined in their resistance by only two members—Beekman of Dutchess county, and Morris of Westchester Borough. The quotas show that Suffolk, Queens and Westchester counties would have profited especially by this scheme, the shares of each of these counties being barely over 5 per cent of the total

[1] Smith: History of New York, Albany edition (1814), II, 94, 97–8.

[2] An act of 1744, raising £3200 for defence, assigned to New York city a quota of 49 per cent, and to Albany 16 per cent. Journal of Assembly, II, 37. Col. Laws, III, 403.

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levy. The bill was rejected by the council with severe comments on the injustice of the discrimination, especially on that against New York city. The council scouted the notion that the taxable wealth of the city and county of New York amounted to one-third of that of the whole province, and went on to show that the quota assigned to New York exceeded even one-third of the levy by more than the entire quotas of Suffolk, Queens and Richmond counties combined.[1] There seems little doubt that Long Island was sponsor for this discrimination, for the House appointed the members from Suffolk and Queens counties as a committee to answer the council's representation which had embodied criticism of the quotas.

By the latter part of the same session it is evident that New York and Albany had rallied their forces. In framing the quotas of a tax for £13,000 they succeeded in winning over the delegations from Dutchess and Westchester counties and one vote each from Orange and Richmond counties. By means of this combination the discriminations in the earlier bill were corrected. New York's quota was fixed at thirty-three and one-third per cent, instead of forty-four per cent, and thereafter New York city always paid one-third of every tax levy. Albany's share was reduced from nineteen per cent to fourteen per cent, making the combined quotas of the two commercial centers forty-seven per cent instead of sixty-five per cent. This correction involved an increase of nearly one hundred per cent each in the cases of Queens and Suffolk counties—the significance of which is obvious. Equally significant is the fact that Dutchess and Westchester counties escaped for the time without any substantial increase in their quotas. Though participating with the Long Island counties in the original raid on New York and Albany, they were rewarded for their adhesion on this occasion to the New York-Albany combination by increases in their own quotas which were almost negligible.

The general domination of the New York-Albany combination with Dutchess and Westchester counties continued in the

[1] Journal of Legisl. Council, II, 916-17. Journal of Assembly, II, 95-99, 101, 109-110. Col. Laws, III, 548, 577, 660.

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apportionments of the taxes levied for the conduct of the fourth intercolonial war, 1755 to 1759, but with significant variations. The quotas in a tax of £45,000, voted in February, 1755, displayed especial tenderness for Albany, reducing its quota from a little over fourteen per cent to ten and three-fifths per cent. This made necessary substantial increases somewhere, and this time the blow fell on Westchester and Dutchess counties, whose quotas were nearly doubled, while Suffolk and Queens counties received slight mitigation. Westchester and Dutchess, however, could hardly expect much sympathy. Their percentages of the total white population stood respectively at fourteen and one-third per cent and nearly sixteen per cent, while their tax quotas in previous apportionments were five and one-half per cent and four and one-tenth per cent. Nevertheless, we find them resisting the increase of their quotas, in which resistance they were aided, though fruitlessly, by the New York city members.

But Albany was unable to retain its advantage. Within three months a new apportionment of quotas was made. This scheme stood for the remainder of the war, and was applicable to levies amounting to £270,000. By this apportionment Albany's quota was placed at a fraction over sixteen per cent, New York's remained at thirty-three and one-third per cent and a slight reduction was distributed generally over the other counties. Thus the two commercial centers, comprising about one-third of the white population, paid just one-half of every levy of direct tax.[1]

The only instances after the last decade of the seventeenth century of apportionment of militia detachments among the counties occurred in 1709 and 1711, and in 1759. In general, the quotas for this purpose conformed to the respective percentages of total white population very much more closely than in the case of the privilege of representation or share in the burden of taxation. The quotas for the detachment in 1711, however, reveal the discrimination against Long Island of which Mulford complained. New York and Westchester counties were favored, while Suffolk county, with a population quota of

[1] Journal of Assembly, II, 441–2. Col. Laws, III, 1038, 1078, 1131, IV, 60, 215, 317.

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thirteen and a half per cent, was assigned a detachment quota of eighteen per cent. In the assignment of detachment quotas in 1759 this discrimination against Suffolk county was corrected. The journal of the assembly reveals a close parliamentary struggle at every step. But the usually prevailing majority, in a series of votes standing fifteen to eleven, consisted of a combination of the members from New York city, from the Albany region and from Dutchess and Westchester counties. When, however, in settling their own quotas, Dutchess and Westchester tried to turn and rend each other, the matter was settled each time by the combination of the New York and Albany members with those who on the other quotas were usually in the minority. And this same combination defended Ulster county against undue discrimination.[1]

Apportionment of direct tax quotas and of militia detachments are matters which furnish the typical arena for sectional struggles. What happened in this matter during this period seems to be about as follows. In the tax-levies for the third war, excessive discrimination against the commercial centers was at first attempted. This was defeated by the aid of the council in which the commercial interests found a protector. The New York-Albany combination pursued a policy of *divide et impera* and attached to itself, significantly, that portion of the province which was most completely controlled by the great provincial families and "interests." New York city accepted permanently a quota greater than was in its opinion just, but the best that according to its estimate of the actual situation could be obtained. At the beginning of the levies for the fourth war, Albany tried to develop a combination between itself and the rest of the province against New York, Dutchess and Westchester counties. This attempt to attain an undue advantage was at first successful, but for much the greater part of the huge levies for this war, a readjustment was effected which restored Albany's quota to a more nearly equitable position.

## IV

Two features are significant in this development. The first

[1] Journal of Assembly, II, 594–7. Col. Laws, I, 723.

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is the defensive combination of the commercial centers with the counties occupied by great estates, against quotas excessive in their weight on the commercial centers. This was in 1746. The second is the fact that it was the combination of New York city with the counties containing the estates of its most influential citizens, which was the makeweight in the readjustments following Albany's temporarily successful combination with Long Island and the counties on the western shore of the Hudson.

There is some significance in the composition of the usually dominant majority, namely, New York, the Albany region and Dutchess and Westchester counties. New York city and county furnished four votes; the city and county of Albany, two; Westchester and Dutchess counties, two each. But, besides these, the Albany region accounts for three more votes, one each from the special jurisdictions, Schenectady, Rensselaerwyck and Livingston Manor. Westchester sent two additional members, one from the borough of that name and one from Cortlandt Manor. One-third of this dominant combination of votes came from what were practically pocket boroughs, under the control of great families, or business and family alliances, whose interests were both commercial and territorial. The two commercial centers, New York and Albany, were reciprocally useful to each other, one as the source by way of importation from Europe of the goods required for the Indians, the other as the headquarters of the "handlers," to whose agents at Oswego and Albany the furs were brought from the interior of the continent. In matters relating to trade, "business interests" drew New York and Albany together. In like manner there was a bond between the commercial centers and the "planting" regions. In a country as yet thinly peopled but with possibilities of development, land speculation is a prevailing form of investment. In New York this had taken a form which favored comparatively slow, but also comparatively steady, occupation of the "vacant lands" behind the Iroquois screen. The great estates on whose leaseholds the occupying population was settling throughout the period were controlled by the same groups of interests which were powerful in determining the commercial policy of the

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province. And it was especially Dutchess and Westchester counties that were characterized by the dominance, politically and otherwise, of these estate-holding grandees. It was not, then, by accident that the combination of votes which we have seen presiding over the assignment of quotas among the counties was made up as it was. More votes in assembly roll-calls might be cast by members residing in the rural regions than by town dwellers; but the influences controlling these votes centered in small groups of men whose interests were concerned at the same time in trade and in "planting."

No sweeping or portentous conclusion seems possible to be drawn from this sketch. The features of political practice, instances of which have been outlined, serve, however, to enforce the general observation that provincial politics were as much of a tangle of the important and the petty, as much of an interweaving of vaguely felt principle and stalwart local prejudice as are state politics today. In one sense the "petty cabals" over tax quotas were only "contests between crows and kingbirds." Stubborn determination to put the expense of government support on trade rather than land was, perhaps, only the form of tax-dodging which suited the circumstances of the time. In this very sense, however, these manifestations of intense localism have a certain interest. All the efforts of today for efficient procedure in state or federal finance find their most deep-rooted obstacle in the passion for log-rolling for local appropriations among representatives of localities. This seems to have become almost a primary characteristic of "politics" as at present practiced. It should be evident, however, even from this fragmentary sketch, that this trait is no recent development of degeneracy in representative institutions. The problem of relative voting strength in the legislature of metropolis or cities, and "up-state" or "down-state," as the case may be, is after all older than the industrial revolution. More complete familiarity with other aspects of provincial politics would probably enable one to trace to a like ancient origin features regarded as equally characteristic of the present parlous state of politics in our commonwealths.

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# CANADIAN GOVERNMENT ANNUITIES

## A STUDY OF THEIR RELATION TO THE PROBLEM OF POVERTY IN OLD AGE

UNTIL about a half-century ago the universal solution of the problem of poverty in old age—if solution it can be called—was the poorhouse in some of its more or less humane forms. But in the last half-century[1] there have been set in operation a wide variety of plans designed to relieve the aged poor without attaching to them the stigma of pauperism. Underlying all these plans is the principle that the state has a duty to protect the soldiers of industry against misery in old age. They range from old-age pensions, as in New Zealand and the United Kingdom, to simple annuities at rock-bottom rates with what is practically a state guarantee, as in Massachusetts. Canada has now had in existence for something over six years a system of annuities which approaches close to the Massachusetts standard, but which is differentiated from that standard by an indirect state subvention to the annuities fund.

The position of the Canadian government annuities in the range of plans may be defined more accurately by a few details. In New Zealand and in Great Britain the beneficiary is not asked to make any contribution towards the cost of the pension; the state bears the whole burden. On the continent of Europe —in Switzerland, in Belgium, in Germany, in France—there are in operation schemes under which the individual makes a small contribution and this is supplemented by a state bonus. This state bonus has different forms; in Germany it is a flat contribution to the pension; in Belgium and Neuchatel, Switzerland, it has a rough proportion to the contribution of the beneficiary. All these schemes, however, have as a funda-

[1] The French "Caisse de Retraites," the oldest, dates from 1850. See The State and Pensions in Old Age, J. A. Spender, Chapter 6.



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mental characteristic a definite contribution by the state, in addition to the payment of expenses of administration by the state. In Massachusetts, on the other hand, the state makes no direct contribution and the annuity premiums are "loaded" to cover the expenses of administration, although the state does make a considerable contribution towards those expenses. In Canada the annuity premiums are not "loaded" to provide for expenses of administration; these are borne by the state, and in addition the premiums are calculated on the basis of a rate of interest slightly higher than the normal market rate. In these two ways the Canadian government makes an indirect contribution to the cost of the annuities. As a result the Canadian rates are noticeably lower than those in force in Massachusetts, although not so low as in those European countries where the government makes a direct contribution to the fund.

## I. ORIGIN.

The Canadian government annuities are the result of an effort on the part of the administration of Sir Wilfrid Laurier to outflank an agitation for old-age pensions. This agitation grew out of the discussions in the United Kingdom prior to the adoption of the present pension system, and came to a head in the session of Parliament of 1906[1] in the form of a motion calling for government action of some undefined character for the relief of the aged poor. The following year a similar motion was presented, and the Premier announced himself as opposed to old-age pensions unless contributory. This was in the House of Commons. In the Senate at the same session Sir Richard Cartwright, minister of trade and commerce, discussed the problem and laid on the table of the House a draft bill providing for old-age annuities.[2]

In taking this action Sir Richard stated his attitude towards old-age pensions. He would not object to them if limited to the "honest and industrious" who through "accident or misfortune or some other cause of a similar kind" find themselves

[1] Debates, House of Commons, Canada, 1906–7, vol. ii, pp. 3374–96.

[2] Debates, Senate, Canada, 1906–7, p. 798.

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in want in their old age. But he added: "My own impression is that in a great many cases such a scheme would be found to encourage extravagance, and the result would be that the thrifty, industrious workingman would find himself ultimately compelled to bear the burden of his less industrious, and possibly dissolute, companion." [1]

To this general criticism Sir Richard admitted "one exception," which he stated thus:

I can understand in the case of old and densely-peopled countries where a large proportion of the population are leading a life from hand to mouth, where practically there is no margin, that statesmen may find themselves, or think themselves, compelled to adopt some such expedient; although, even there, I am strongly of opinion that the experiment is dubious, and, at best, can only be regarded as a temporary expedient, dealing with the effect and not with the cause. Fortunately for us in Canada, I think I am justified in saying, and I think the experience of my colleagues here and elsewhere will bear me out, there is very little risk of any hardworking, industrious, able-bodied man not being able to make adequate provision for his old age, if only an opportunity were given him.

It was to provide this "opportunity" that Sir Richard proposed the establishment of a system of government annuities. He stated his position as follows:

Speaking for myself alone, and in no sense speaking in this matter for my colleagues or other parties, I doubt extremely the expediency of having recourse to a system of old-age pensions, but I do believe there is a great opportunity for the state to avail itself of the machinery at its disposal for the purpose of placing within the grasp of every industrious man in Canada the opportunity at an easy rate, and at a very small cost to the state, of providing a reasonable annuity for his support at an advanced period of life. I say more: not only do I believe that this can be done practically without cost, or at an infinitesimal cost, to the state—infinitesimal, that is to say, in proportion to the benefits to be bestowed—but I believe that some such scheme would attain an end of very great national importance, and meet a great want which is now felt, and which will be more felt from time to time as we grow

[1] Debates, Senate, Canada, 1906–7, p. 331 ff.

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in wealth and importance, and as there are larger numbers of our people engaged in what we may call daily wage-earning occupations.

These are the views of the originator of the Canadian government annuities. It will be noticed that he said that he spoke for himself alone, and did not purport to express the opinion of the cabinet. These views were expressed the year before the system was actually established. In the meantime the subject of old-age pensions itself had been discussed in the House of Commons[1] and the Premier and Hon. W. S. Fielding, the finance minister, had both put forward the cabinet view. They were both critical of the proposal but agreed to the appointment of a committee to investigate the whole subject. That committee did not report; its proposer, Mr. R. F. Pringle, was defeated at the election that year, and the subject did not arise again till 1912 when the present government was in power. Since then another committee[2] has sat and a great deal of evidence favorable to old-age pensions has been received. But at the regular session in 1914, when the Liberals raised a debate on the issue, the present minister of finance, Hon. W. T. White, took much the same ground as was occupied by his Liberal predecessor and declared that there was no need for old-age pensions in Canada.[3]

The agitation for old-age pensions has persisted in spite of the establishment of a government annuity system; but it is an agitation kept up by a few enthusiasts, aided by partisans, and has no grip on the public mind. The part played by party spirit in keeping it alive was amply evident in the debate in 1914 already referred to: the Liberal opposition were enthusiastic for pensions, although they had so recently been sceptical; and the Conservatives formerly favorable, now with the responsibilities of power, had fallen heir to the rôle of the sceptics. In the debate the public apparently took little interest. Whether by the system of government annuities or otherwise, the teeth

[1] Debates, House of Commons, 1907–8, pp. 2398–2435; 2786; 12660.

[2] *Ibid*, 1911–12, pp. 1362–90; 1822–39; 2217. Report was not printed. See Journals, 1912–13, pp. 625 and 638.

[3] Debates, House of Commons, Canada, 1914, pp. 1333–58.

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of the old-age pension agitation had been drawn before they were politically dangerous.

## II. ANNUITY PLANS—COST.

Four main principles underlie the Canadian government annuities:

1. They have a state guarantee.
2. There is no forfeiture in case payments are interrupted or cease altogether.
3. The annuity cannot be mortgaged or seized for debt.
4. The annuity cannot be anticipated.

These underlying conditions are not all set out in the act[1] under which the annuities are administered. The state guarantee is implicit in the contract between the government and the annuitant. Non-forfeiture is secured by the policy of the annuity branch, and has a negative basis in law, in that there is no provision as to forfeiture. The act contains specific provision against the seizure of annuity for debt, except in case of fraud, and also against its transfer to another person. Anticipation is guarded against by provision that, except in case of invalidity or disablement, no annuity shall commence before the annuitant has reached the age of fifty-five.

Canadian government annuities are sharply distinguished from old-age pensions by the absence of a direct contribution by the government. The government does, however, make indirect contributions by two methods: through the rate of interest on which the annuities are based, and by the payment of the expenses of administration. The annuities are based on an interest rate of four per cent, which is higher than the rate paid by the government for money at the time the act was passed. This meant that the government was paying something towards the annuities at that time. Lately, on the other hand, the government has been paying more than four per cent for money, and consequently this contribution has ceased.

The contribution made to the annuities by way of the cost of

[1] The Government Annuities Act, 1908, (7–8 Edward VII, C. 5; as amended by Acts, 1909, C. 4; 1910 C. 4 and 5; and 1913, C. 7.)

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administration amounts at present to about $30,000 a year. The highest figure which the expenditure has reached since the act was passed is $39,000[1] in 1910–11. This contribution would be covered on the average by a loading of five per cent for expenses, which would not materially increase the premiums.

At the outset the fund was managed by the Department of Trade and Commerce, at the head of which was Sir Richard Cartwright, the originator of the annuity plan. Since the change of government in 1911 it has been transferred to the Post Office Department. The fund exists only as a matter of bookkeeping. The moneys received are placed in the general "Consolidated Fund," out of which all current expenditures of the government are defrayed; and in return the annuitant receives a government guarantee of his investment. An account of the fund is, nevertheless, kept for the purpose of ascertaining whether it is self-sustaining or not; and in this account the government is charged with the payments necessary to maintain the actuarial reserve. Up to the present, leaving the cost of administration to one side, the fund has been self-sustaining and the contribution of the government by way of a higher rate of interest has been practically nil.[2]

The annuities sold are of two kinds: immediate and deferred. It is the second class with which we are here chiefly concerned. The immediate annuities do not, in the nature of the case, provide a means of saving for old age. They do, however, make it possible for old people who have been thrifty to make better provision for their declining years than is otherwise available, and in addition they offer to the aged an opportunity to get the largest possible return from their savings without assuming any risk. In these ways they do present an inducement to thrift, especially to persons in middle age whose circumstances may very well make the purchase of a deferred annuity impracticable. The immediate annuities are to this extent a contribution to the

[1] These figures do not include rent for offices, which are not given separately. See annual reports of auditor-general.

[2] Up to the end of the fiscal year 1914–15 the total receipts on account of annuities were $2,442,075.59. At the same date the net present value of all outstanding contracts, that is the present value of payments due on them, was $2,315,585.53.

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solution of the problem with which we are engaged; and they have attracted up to the end of the fiscal year 1914-15 something over six hundred purchasers. They contribute largely to the receipts of the annuity branch, as in the case of immediate annuities it is the capital sum which is paid in as against the premiums which are to breed that capital sum in the case of deferred annuities. But although the immediate contracts bulk largely in the receipts, they form but a small proportion of the total number of contracts written—less than one-sixth in fact—and for this reason too they are of minor importance in a social and economic study of the annuity system.

The deferred annuities are available in great variety. A contract may be taken out as early as five years of age, the application in such a case being in the name of the parent or guardian. Payment of premiums may be regular or intermittent; and they may cease at any time the annuitant chooses or finds it necessary. The annuity, except in case of invalidity, cannot be drawn before the age of fifty-five; but it may be delayed until any age the purchaser desires, with the proviso that the price shall be the same for all ages above eighty-five. If payments are intermitted or cease, the annuitant will receive full value for whatever he may have paid. If, however, his payments are not sufficient to purchase an annuity of fifty dollars, his payments will be returned to him with interest at three per cent, compounded yearly.

The amount of annuity which may be purchased is limited to one thousand dollars. At the inception of the system this upper limit was six hundred dollars, and husband and wife were unable to purchase a larger annuity, either jointly or by two separate contracts. In 1913 the limit was raised to one thousand dollars, and husband and wife may each take out contracts for that amount. An annuity may be for life simply, or it may be guaranteed for a term of years. The contract may be for a single person or with two persons jointly, with or without continuance to the last survivor.

Payments for an annuity may be made directly to the department or through any money-order post office. The latter plan is advised by the annuity branch in the case of deferred an-

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nuities. Special provision is made in the annuities act that moneys deposited in the post-office savings banks may be transferred for the purchase of an annuity.[1] There is provision as well under which an employer may contract with his employees to purchase annuities, the cost of which is divided between the parties as agreed by them, provided that the form of the agreement is approved by the minister in charge of the annuities branch.[2] No medical examination is necessary to the purchase of an annuity.

The cost of the annuity varies, of course, according to the nature of the contract, the age of the applicant and the age at which the annuity falls due. For instance, one may take the rates for a simple annuity to begin at the age of 55 (the earliest age possible under the act, and also the most popular age). The following table[3] shows the monthly premiums required to purchase an annuity of $100 to begin at that age, the premiums to be paid from the commencing ages mentioned below. In this table "Plan A" means that, if the purchaser dies before the annuity begins, his payments are returned to his heirs with compound interest at three per cent; under "Plan B" there is no return in that case.

| COMMENCING AGE | PLAN A | | PLAN B | |
|---|---|---|---|---|
| | MALE | FEMALE | MALE | FEMALE |
| 20 | $1.27 | $1.38 | $1.01 | $1.10 |
| 25 | 1.68 | 1.83 | 1.37 | 1.49 |
| 30 | 2.28 | 2.48 | 1.90 | 2.07 |
| 35 | 3.21 | 3.49 | 2.74 | 2.99 |
| 40 | 4.80 | 5.22 | 4.22 | 4.60 |
| 45 | 8.04 | 8.74 | 7.31 | 7.98 |
| 50 | 17.86 | 19.41 | 16.90 | 18.43 |

Rates are also quoted by the annuities branch for guaranteed and for joint survivor annuities on both the immediate and the deferred plans. An annuity may be guaranteed for a term not exceeding twenty years. The rate for a guaranteed annuity

[1] 7–8 Edward VII, C. 5, s. 6.

[2] *Ibid.*, s. 6, ss. 3.

[3] Booklet issued by the postmaster-general, entitled "Canadian Government Annuities."

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is higher than for a life annuity; but the guarantee includes the life of the annuitant as well as the guaranteed term of years. If the annuitant dies before the guaranteed period expires, the annuity for the unexpired portion of the term will be paid in accordance with his directions. If the annuitant survives the guaranteed period, the annuity will be continued to him without any additional charge, as long as he lives. The rates are higher for females because their expectation of life, at the age when annuities are receivable, is greater then the expectation of males.

### III. COMPARISON OF CANADIAN AND MASSACHUSETTS PLANS

The rates for annuities under the Canadian government system are the lowest which the writer has been able to find among annuity as distinguished from pension systems. Nearest to them in characteristics and in cost come the annuities obtainable under the Savings Bank Insurance scheme of Massachusetts. The Canadian system is confined strictly to annuities. In Massachusetts annuities are a small part of an industrial insurance program. The Massachusetts plan contains a number of insurance policies which are entirely absent under the Canadian government scheme, and even within the narrower field of annuities has features which are not offered by the Canadian government. Nevertheless, where the two systems are strictly comparable, the Canadian rates are clearly lower. For this, as will appear, there are evident reasons.

The Massachusetts savings-bank insurance has been in operation since June, 1908,[1] and it has wrought marvelous changes in the field of industrial insurance. The rates charged by the companies for this class of insurance have been cut twenty per cent; and the provisions of the company policies have been made much more just and liberal.[2] Savings-bank insurance in the Bay State includes a wide variety of policies. It includes

[1] The act authorizing savings insurance was approved June 26, 1907; and the first bank received permission to begin business June 18, 1908. Chapter 561, Acts of 1907, Mass.; Report of Insurance Commissioner and Bank Commissioner, 1915.

[2] "Successes of Savings Bank Insurance" (April 1914) by Louis D. Brandeis, reprinted from "Business—A Profession" by Massachusetts Savings Insurance League.

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straight life insurance, endowment insurance, and twenty-payment life insurance. It includes also—and this is our immediate concern—several varieties of annuity policy. These may be described as immediate annuities and deferred annuities, and combination insurance-annuity policies. Deferred simple annuities may be purchased either with or without return of premiums in case of death before the annuity matures.

Easily the most popular form of annuity policy in Massachusetts is that which combines insurance and annuity. According to the latest information[1] there are in force in Massachusetts over 10,000 savings insurance policies of all kinds. Of these 242 are annuity policies, divided as follows:

147 being so-called "combination" policies covering life insurance to age 60 or 65, and a life annuity after that age;

45 being annuity contracts without return of premium in case of death prior to reaching annuity age;

47 being deferred annuity contracts providing for return of premium in case of death prior to reaching annuity age;

3 being immediate annuity contracts.

The combination insurance and annuity policy is very inviting. It provides for three things. First, it insures the applicant or policyholder until the age when the annuity matures, say 60 or 65. Second, it provides for an annuity for life from that age. Third, in case of death before the annuity reaches the amount of the insurance provided before the annuity age, the heirs will be paid the difference between the annuity already received and the amount of the insurance. To take an example. If the policyholder is 25 years of age and pays in $2.21 per month from that age and dies before reaching 60, his family will receive $250; if he lives past 60, he will receive a life an-

[1] May 27, 1915. Information supplied by Miss Alice Grady, financial secretary, Massachusetts Savings Insurance League. At the end of the last fiscal year of the savings insurance system, October 31, 1914, the total number of policies was 9535; whole life, 3580; endowment, 4770; combination insurance and annuity, 117; deferred annuities, 93; immediate annuities, 3; all other policies, 972. See Report of Insurance Commissioner and Bank Commissioner, 1915. House document 1640, Massachusetts.

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nuity of $200. If he dies before he receives $250 in the form of annuity, the difference between that amount and the annuity received will be paid to his family.[1] This and other annuity policies also participate in the profits of the savings insurance banks.

This combination policy is an attractive feature of the Massachusetts plan which is not included in the Canadian system. In the nature of the case it cannot be included, as the Canadian system is confined to annuities and does not include insurance at all. The form of policy under which the Canadian and Massachusetts schemes are comparable is the simple deferred annuity. In this comparison, as already indicated, the Canadian rates are markedly lower. The comparison may be briefly illustrated in tabular form.[2] The amount of annuity at age 60 in each case is $100. The monthly rates compared are those for males:

| COMMENCING AGE | PLAN A (WITH RETURN) MASS. | PLAN A (WITH RETURN) CAN. | PLAN B (WITHOUT RETURN) MASS. | PLAN B (WITHOUT RETURN) CAN. |
|---|---|---|---|---|
| 20 | $0.99 | $0.84 | $0.82 | $0.62 |
| 25 | 1.32 | 1.10 | 1.07 | 0.82 |
| 30 | 1.76 | 1.45 | 1.42 | 1.12 |
| 35 | 2.39 | 1.98 | 1.96 | 1.56 |
| 40 | 3.36 | 2.79 | 2.79 | 2.27 |
| 45 | 5.02 | 4.18 | 4.28 | 3.52 |
| 50 | 8.37 | 7.01 | 7.39 | 6.16 |

It will be noticed that at the early ages an annuity under Plan A costs very little more in Canada than it would cost under Plan B in Massachusetts. At the last age given, the Canadian rate for Plan A is materially lower than the Massachusetts rate for Plan B. Moreover, in Canada, Plan A implies that the payments are returned with interest compounded at three per cent, while in Massachusetts return is made of the payments themselves only and without interest.

Such great differences in rates as these must, of course, have

[1] Form issued by the state actuary, Massachusetts.

[2] The Massachusetts figures are taken from "Old Age Dependency in the United States," Squier, pp. 286–90; and were checked from "Pensions for Men," issued by the state actuary, Massachusetts.

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an explanation. The difference is partly due to the fact that in Massachusetts the rates are "loaded" to cover expenses, while in Canada the expenses of administration are borne entirely by the government. This statement does not, however, represent the facts quite accurately. In Canada the expenses of administration are borne entirely by the government. But in Massachusetts the state by no means stands aloof. In all $19,500[1] is provided by the legislature for the expenses of the life-insurance departments of Massachusetts savings banks, and in addition publicity work is done by the Massachusetts Savings Insurance League, a voluntary association. The sum contributed by the state covers the offices of the state actuary, medical director, secretary, and also provides $2500 towards the cost of the publicity campaign. These state contributions are for the whole insurance propaganda, but they include similar expenses for the annuities. Thus in Massachusetts the state does bear a substantial part of the cost of selling annuities. Still the Massachusetts annuity premiums are "loaded" for expenses, while the Canadian rates are not "loaded."

"Loading" for expenses, then, provides a partial explanation of the difference between the Canadian and Massachusetts rates. But little calculation is needed to show that this element will not suffice to explain the whole difference. The lower Canadian rates are possible also because in reckoning the reserves the Canadian government allows interest at four per cent as against three and a half per cent in Massachusetts. The Canadian rate of interest was regarded by the initiators of the system as a contribution to the annuity fund; but up till now the government has been paying quite as much for money in the open market as it has been allowing to the purchasers of annuities.

Another fact which goes to explain the higher rates in Massachusetts than in Canada is the inclusion in the Bay State policies of the privilege of participation in the profits of the savings insurance banks. The banking and the insurance departments of these banks are entirely separate and their investments must

[1] Massachusetts Acts, 1914, chapter 130; and 1915, chapter 168.

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be kept separate under the law; and the insurance and annuity policies issued by the insurance departments participate in the profits earned by the insurance departments. Up till now the profits on annuities have amounted to two and a half per cent of the annual premium.[1] This operates by way of a reduction in the rates, and constitutes a set-off against the "loading" for expenses. These profits show a tendency to increase, so that the net rates are likely to decline.

The fundamental point in a comparison of the two systems, which must always be kept in mind, is that the Canadian scheme is limited to annuities only, while the Massachusetts system is primarily an insurance scheme, in which annuities play a subsidiary and a minor part. The Massachusetts plan came into being as an effort to remove abuses in industrial insurance. The Canadian act grew out of a campaign for old-age pensions and the endeavor of the government of the day to substitute annuities for pensions. The Canadian annuities are sold directly by the state, and so have a direct state guarantee. In Massachusetts the policies are issued by the insurance departments of savings banks and not by the state; but the law provides for a supervision so strict as to approach closely to a state guarantee.

## IV. ANNUITIES AND PENSIONS

Canada's government annuities, owing their existence to an effort to circumvent an agitation for old-age pensions, must pay the penalty of their origin, and submit to comparison with old-age pension schemes and other government plans for warding off want in old age. Under such systems the state contributes largely or gives the whole pension outright. An outstanding example of the former is the old-age insurance of Germany, and two prominent instances of the latter are the old-age pensions of the United Kingdom and of New Zealand.

It is unnecessary here to describe the German system[2] of insurance against old age in any detail. Suffice it to say that

[1] Again I am indebted to the financial secretary of the Massachusetts Savings Insurance League for the information in regard to profits on annuities.

[2] The details here used are taken from W. Harbutt Dawson, Social Insurance for Germany, (1912), chapter vi.

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the yearly benefit, which varies with the income earned by the worker during his years of activity, ranges from 110 to 230 marks; or from $26.18 to $54.74. In order to secure this the worker and the employer must make equal payments weekly during a period of 1200 weeks, or approximately twenty-five years, five weeks' margin being allowed for non-payment out of each year. The combined contributions of employer and employee by no means pay for the benefit, the state making a flat addition to the pension of fifty marks annually. The payment of the pension begins at the age of seventy.

Let us, then, see what these pensions would cost a working man under the Canadian system, as compared with the cost in Germany. If the Canadian workman begins to make his payments for the purchase of an annuity when he has reached the age of 45—this age will allow him about the same time to make the purchase as is the custom in Germany—the German minimum pension would cost him 5 cents per week; the German workman and employer combined pay 4 cents per week. Under the same conditions the German maximum pension would cost the Canadian workman 11 cents per week; the German employer and employee together pay 11½ cents per week. But the Canadian workman may make his payments over a longer period and so reduce the weekly cost. If he begins at the age of 35, the total German pension would cost him only 2½ cents per week for the minimum and 5½ cents for the maximum. Beginning at 25, the Canadian workman can obtain the German minimum for 2 cents per week, the amount paid by the German workman alone; and the German maximum would cost him about 3 cents per week at the same age.

The British old-age pension is five shillings a week, beginning at the age of 70. On a yearly basis this is approximately $62.50. To purchase this annuity under the Canadian system would cost a Canadian workman 12½ cents a week, if he began his payments at the age of 45. Ten years earlier he could purchase the same annuity for half that amount; and at 25 years of age it would cost him just 3½ cents per week.

The New Zealand pension is double the British, and it begins five years earlier, at the age of 65. To purchase an annuity of

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$125 to begin at the age of 65, a Canadian workman would have to pay 51 cents a week, if he began at 45; 25 cents at 35; and 10 cents at the age of 20.

The New Zealand pension is quite certainly out of the reach of all but the better-paid artisans, if it is to be purchased by the workman at the Canadian rates. Not that it would be financially impossible for a regularly employed laborer to save ten cents per week. The obstacle is moral rather than economic, using moral in its broadest sense. The period of waiting involved in continuing payments over a period of fifty-five years would rob the plan of any attractiveness in the mind of the workman. But this consideration would not apply with the same force to the British pension. From 45 to 70 is a comparatively short period, and the possibility of perseverance would increase in rapid proportion to the reduction of the waiting period. There are, it may be noted, a number of "laborers"—so described by themselves—who have taken out annuities under the Canadian plan. In fact, laborers seem to be quite as ready to take up the scheme as the better-paid workmen of the artisan class.

The choice between annuities and pensions, as means of solving the problem of poverty in old age, must be settled by other considerations, however, than those of the cost to the worker. If it is true that the worker does not pay anything for the old-age pensions, from his point of view there is no choice between the two; and in a community where he has the ballot, there is little doubt how the choice will go. But this is an "if" which cannot be neglected. There is no doubt that under a tariff which applies to the common necessities of life, such as food and clothing, the workman does contribute—in all probability heavily in proportion to his means—to the cost of the upkeep of government; and consequently, where money is raised for pensions by such a system, he would contribute to the cost of these pensions. Even in the United Kingdom, with its comparatively simple system of customs taxation, he does contribute whenever, for example, he uses sugar in any form. Moreover, it is not improbable that the existence of a system of old-age pensions may affect the wages of a country. The influence would, of course, be indirect and slow; but in the long run it would make

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itself felt. Neither must we lose sight of the influence of old-age pensions on thrift. These things must all be taken into account in making a comparison between annuities and old-age pensions. To enter into an extended discussion of them is outside the purpose, as it is beyond the compass, of this article. They are suggested here only for the purpose of giving a proper setting to the comparison between government annuities and pensions as methods of providing for the old age of the wage-earner.

## V. FORM OF ANNUITY PREFERRED BY CANADIAN PURCHASERS

There were in force at the close of the last fiscal year[1] 3625 Canadian government annuities. Of these 3008 were on the deferred and 617 on the immediate plan. On its face this does not look like a very good record for six and a half years of operation. Still it is a very good record for the annuity business in the Dominion of Canada. According to the latest returns available at the federal Department of Insurance[2] the thirty-odd life-insurance companies, which do annuity business in Canada, had in force at that date a total of only 799 contracts for annuities proper, taking all the companies together. They held also 243 contracts for annuities in connection with life-insurance policies. But adding these two figures together—and the annuity is only a side issue in the insurance contract out of which it grows—all the insurance companies in Canada which do annuity business, thirty-two in number, do not carry one-third the number of contracts held by the Annuities Branch of the Post Office. Of annuities proper, Canadian insurance companies have in force 4461 contracts in all; but 3662 were written outside of the Dominion of Canada and chiefly in the United Kingdom. So it is not a fair presentation of the facts to say that Canadian government annuities are not popular in Canada. The correct statement is that the annuity idea has not caught the popular fancy in the Dominion.

[1] Report of Postmaster-General, Appendix M, Statement re Government Annuities, to March 31, 1915.

[2] Report of the Superintendent of Insurance, 1914, vol. ii, Life Companies, Business of 1913.

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Nevertheless, although annuities—even at the favorable rates at which they are offered by the Canadian government—have not made a widespread appeal to the people, the records of the annuity branch indicate that they are reaching persons of very moderate means. One evidence of this is the small proportion of immediate contracts which is taken out. Other evidence is found in the distribution of the deferred annuities as to the amount provided for by the contract. The annuity branch of the post office publishes annually a statement showing the division of the contracts as between males and females and as regards the amount of the annuity and the age at which the contract is signed.[1] From this table for the fiscal year 1913–14 it appears that 61.5 per cent of the contracts were issued to males, and 38.50 per cent to females. Among the males, 57 per cent of the contracts called for annuities ranging from $50 to $150; while among the females the corresponding percentage was 56. The next highest percentages are those for $150 to $250; and these are 14 per cent for males and 19 per cent for females. The annuities ranging from $250 to $350 reach 12 per cent among the males, and 13 per cent among the females. For the higher amounts the percentages fall off rapidly, although the $600 contracts are more generally used than those immediately below that figure.

There is another characteristic which is noticeable in the appeal made by the Canadian government annuities. Besides their appeal to persons of moderate means, they appeal to those who desire to make an investment. Citizens of the new world are not content to put their money by as a provision against old age. They are anxious to use it to make more money. That is unquestionably one of the chief reasons why annuity schemes have had so little success on this continent. The most popular forms of insurance are those which have an investment element in them. So it is with Canadian government annuities. The form of contract which has been most popular is that which includes an investment as well as provision for old age. It is what is known as "Plan A," under which the purchase

[1] See Appendix M of the Annual Reports of the Postmaster-General.

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money is returned to the heirs with three-per-cent compound interest in case the annuitant dies before the payment of the annuity commences.

Evidence of this fact is supplied in an analysis of the contracts issued by the annuity branch. For the information of the writer an examination was made of the first one hundred contracts issued, and also of the same number at intervals of five hundred, concluding with the hundred numbered from 3480 to 3579. On the basis of this sampling the records show that approximately 70 per cent of the contracts are issued on "Plan A" and only 9 per cent on "Plan B." The balance of the one hundred per cent is accounted for by immediate contracts. It is possible, of course, that this sampling may have been influenced by exceptional circumstances, such as the receipt of a "batch" of contracts from one agent. But it is not at all probable that such an influence would affect these figures so much as to change the inference to which they point. The plan which provides against old age only finds few "takers." It is the plan which includes an investment element which appeals to the Canadian annuitant.

Another feature which is brought into relief by this sample analysis is that the annuitants are desirous of having the annuity commence as early as possible. In this case the percentages are not so striking but they are sufficiently different to make the fact clear. The earliest time at which an annuity may be paid under the provisions of the law is 55, and 45 per cent of those who take out contracts choose this age. The next highest percentage is 32 at the age of 60. There are also a few scattering contracts, in which the age of commencement is put at 65 and 70; and an occasional annuitant chooses other than a quinquennial period, such as 67. A very rare instance is furnished by an optimist who was 70 years of age when he took out his contract, and who chose to purchase a deferred annuity. The evidence is, however, tolerably clear that the favorite age for commencing to reap the fruits of saving is 55. The annuitant usually prefers to reap his reward early rather than to increase that reward by postponing it.

Moreover, not only does he want his reward early; he wants

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to have as much certainty as possible about it. One of the objections which is frequently raised by inquirers is that, if death comes after one payment is made on the annuity, this ends all and there is nothing for dependents. To meet this objection the annuity branch will, for an additional but small sum, guarantee the payment of the annuity for at least a certain number of years—to the annuitant if living and otherwise to his heirs. This guaranteed contract, on Plan A, is the most popular form of annuity which the branch sells. Over forty per cent of all the contracts in force at the end of the fiscal year 1913–14 were of this nature;[1] and as against deferred contracts alone the percentage was fifty or over. These contracts, in fact, numbered 1608 out of 3381 total, and 1489 out of 2850 deferred contracts extant. These figures are again evidence that what the purchasers of Canadian government annuities want is an investment. They do not care for the pure and simple gamble against death. Plan-B contracts, which represent this gamble in its simplest form, number only 342 in all, or very little over ten per cent. The Canadian purchaser of a government annuity is looking for a safe and certain investment. He is not satisfied with merely insuring himself against want in old age.

## VI. DISTRIBUTION OF ANNUITANTS

One of the first criticisms which met this project of government annuities, when it was brought forward in the Canadian Senate by Sir Richard Cartwright, was that it would not reach the class which would be benefited by an old-age pension. This objection was thus voiced clearly by Senator Ferguson, who at the same time advocated a system of old-age pensions.

> The gravest objection to the bill, is that, in my opinion, it would not benefit to any great extent the class which, by its title and the description we have had of it, it is intended to serve, namely the poorer people. It will prove on trial to be a system of annuities for the middle class, and I believe it will not reach the people we have more particularly in our minds to help, and whose interests we are most anxious to advance. My reason for thinking so is, that without solici-

[1] Report of Postmaster-General, Appendix M, Statement *re* Government Annuities.

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tation or compulsion very few poor people would avail themselves of it, and the advantage which it offers over that already given by the insurance companies is very slight indeed.[1]

After a little more than six years' experience of the act, one is compelled to admit that there is a good deal of force in Senator Ferguson's criticism; but one can say that the situation is much more hopeful than his words would indicate. The very poor have not, of course, taken out annuity contracts. But the annuity business of the government has been much more flourishing than the annuity business of the insurance companies; it has reached people of moderate means; it has penetrated considerably below the middle class; and it has attracted a large percentage of persons who have to earn their livelihood as employees.

In this connection the writer is able to present a sample analysis of the occupations of the annuitants, which was made by the actuary of the annuity branch. This analysis includes 603 annuitants, selected in groups of one hundred at equal intervals throughout the records. A complete analysis was impossible, because many of the annuitants had not filled out their occupation in the application. In this analysis, however, each group of one hundred includes only persons who did state their occupation. This sampling is analyzed into ten separate groups. The first group includes those connected with agriculture; the second, the professional classes; the third, financiers, merchants etc.; the fourth, government employees; fifth, railway employees; sixth, clerks, agents etc.; seventh, nurses, housekeepers etc.; eighth, skilled artisans; ninth, laborers; and a tenth class, miscellaneous, consisting of married women, spinsters and minors.

There are, of course, a good many doubtful cases in such a classification. For example, what about teachers? Are they to be classed with lawyers as belonging to a profession, or with clerks on the basis of their income? This particular case happens to be an important one, as teachers themselves supply the largest number of purchasers of annuities produced by any

[1] Debates of the Senate, Canada, 1906–7, p. 702.

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one class. There are, in fact, among the six-hundred-odd annuitants classified no less than 89 teachers. That is, teachers alone are practically 15 per cent of the total number of purchasers. They are more numerous than all the skilled artisans and laborers taken together. They are also more numerous than the total of the class described as financiers and merchants, or than any of the other classes except that called professional. It is then of vital importance to our inference how the teacher is to be classified.

Next to the teacher in numerical importance, but still a long way below him, comes the clerk, so described by himself. The clerks numbers 39. Next to them come farmers, 38; students, 30; and clergy, 28. The other individual occupations have again considerably smaller representations. Married women, spinsters and minors, otherwise undescribed, account for 41.

In order to test Senator Ferguson's criticism, the author has attempted to draw a line which roughly divides the employing from the employee classes. In the employing class is included agriculture, the professions, merchants and financiers, and the miscellaneous group of married women, spinsters and minors; in the employee class, the rest of the groups except government employees, who might be regarded as a class by themselves in regard to a government system of annuities. Taking this classification, if teachers are to be classed with employers, that group accounts for 61 per cent of the total contracts; and the employee classes for only 35 per cent, while government employees are 4 per cent. But if teachers are to be counted as employees —which would seem to be the more accurate classification economically—then the employees aggregate 50 per cent of the total; the employers 46 per cent; and the government employees 4 per cent, as before. So it seems a fair statement of the case to say that about half of the annuity contracts are taken out by persons who earn their own living by wage or salary, and whose wage or salary, in the greater number of cases, is small.

Pursuing the test further, it is evident that the skilled artisans and laborers—those who are usually included under the term wage-earners—constitute only a small proportion among the an-

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nuitants. The skilled artisans number 9 per cent, and the laborers 4 per cent—the two classes together making up 13 per cent. If we add to these two classes the railway employees—most of whom in the sample belong to the skilled artisan class in the nature of their work—the result is only 15 per cent of the total. Clerks and stenographers—strictly so called—frequently earn less than skilled artisans, but usually come of parentage which is more given to investing than is the wage-earner. Their inclusion would add nearly 9 per cent to the proportion of the composite class; but it is necessary to keep in mind that the composite is based on equality of earnings rather than on similarity of economic habits.

With these explanations, one may sum up the facts of the case thus: Canadian government annuities have not reached the poor; but they have been purchased in large proportions by persons of moderate income, by members of the employee classes, by persons whose incomes fall clearly below the standard of what is usually known as "the middle class."

## VII. CONCLUSION

During the little more than six years and a half that the Canadian annuities branch has been in operation, there have been written 3700 annuity contracts.[1] The course of the business is reflected in the number of contracts taken out in each fiscal year:

| | |
|---|---|
| Sept. 1, 1908 to March 31, 1909 | 80 |
| April 1, 1909 to March 31, 1910 | 566 |
| April 1, 1910 to March 31, 1911 | 1069 |
| April 1, 1911 to March 31, 1912 | 1031 |
| April 1, 1912 to March 31, 1913 | 373 |
| April 1, 1913 to March 31, 1914 | 318 |
| April 1, 1914 to March 31, 1915 | 263 |

During the first three years, it is evident from this table, there was rapid and steady growth; but in the fourth year this growth was checked and a sharp decline followed. This decline was coincident with a change in the method of propaganda—from

[1] Seventy-five annuitants have died, or their policies have been canceled, which makes the total number of contracts now in force 3625.

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lecturers to advertising—the object of which was economy. The expenditure has been reduced by a quarter; but at the same time a business that was growing rapidly has been brought to a standstill and the annual expansion reduced to a third of its former figures.

It seems a fair inference from these figures, and from the evidence of the preceding pages, that the experience of the Canadian government annuities system indicates that it is a hopeful contribution to the solution of the problem of poverty in old age. It has shown that such a scheme has strong powers of appeal even in a country where the annuity idea is not popular. It has not reached the day-laborer nor the artisan in any large numbers; but it has attracted persons of very moderate income, such as clerks and school teachers and others in the same economic class. It has had a success far beyond that of the insurance companies which sell annuities in the Dominion. Moreover, the history of the system suggests that, given a proper method of propaganda, a much wider response might be expected to its appeal than has been obtained in the last few years.

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# THE NEW ANTI-TRUST ACTS

THERE are five possible policies which a government may adopt toward industrial combinations. The first, that of *laissez faire*, or of allowing them to develop without governmental interference or regulation, though it has never lacked for advocates among American business men, has never been tried by this country. Even before the Sherman Act was passed the common law was held to condemn combinations in unreasonable restraint of trade and monopolies. As first interpreted by the courts, the Sherman Act committed us to the second policy, that of *enforced competition*. Every combination, whether reasonable or unreasonable, was held to be condemned and prohibited. By permitting reasonable combinations, recent decisions have prepared the way for the third policy, that of *regulated competition*. This may not prove as different from the fourth policy, that of *regulated combination*—the policy of Germany—as the terms imply. The fifth policy is *government ownership and operation*, or state socialism.

In the light of this analysis the trust legislation of last winter may be described as a legislative endorsement of the position already taken by the courts substituting the policy of "regulated competition" for the policy of "enforced competition." To say this, however, is to imply a unity and consistency in the new legislation which it in fact lacks. Like the other important measures passed by the last Congress, the Anti-Trust Acts were the result of compromise. To understand them fully it is necessary to recall the political background from which they emerged.

In 1908 Mr. Taft was elected president on a platform which, while claiming credit to the Republican party for the Sherman Anti-Trust Law, declared that

> experience has shown that its effectiveness can be strengthened and its real objects better attained by such amendments as will give to the federal government greater supervision and control over, and secure



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greater publicity in the management of, that class of corporations engaged in interstate commerce having power and opportunity to effect monopolies.

This declaration pointed clearly toward supervision by a federal commission and federal incorporation as Republican policies. Mr. Bryan, the Democratic candidate, stood on a platform which favored a policy that would prohibit the control by a "manufacturing or trading corporation engaged in interstate commerce . . . of more than fifty per cent of the total amount of any product consumed in the United States." During the four years that followed, the Republican administration virtually abandoned its initial effort to enact further legislation, but continued vigorously the policy, inaugurated by Mr. Roosevelt, of bringing dissolution suits against the larger combinations.

As the candidate supported by Mr. Bryan, Mr. Wilson might have been expected to favor legislation which would prevent any corporation from controlling more than half the business of the country in any particular department. In the campaign he was particularly severe in his criticism of the candidate of the Progressives for advocating regulated monopoly, declaring that any kind of monopoly was obnoxious to the spirit of American institutions. Mr. Roosevelt's retort that the Governor of New Jersey, before criticising any proposed national policy with reference to the trusts, should do some house-cleaning at home, since it was notoriously under the protection of New Jersey's corporation law that the giant holding companies had developed, hastened the "Seven-Sister" legislation that was already in contemplation in that state. In securing the enactment of the "Seven-Sister" laws from a reluctant legislature, Governor Wilson clearly indicated the type of anti-trust legislation which President Wilson would urge upon Congress.

Though in general sympathy with the declaration of their 1908 platform, Democratic leaders in Congress had come to feel some misgiving as to the proposed method of making their anti-monopoly sentiments effective. The decrees ordering the dissolution of the Standard Oil and Tobacco combinations had been

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rendered in the summer of 1911. These prevented any corporation from controlling as much as one-half of the petroleum or tobacco business of the country, and yet there was little evidence of any benefit from these dissolutions to any class in the community except to the stockholders in the dissolved combinations. It was quite clear from this experience that formal dissolution was illusory as a remedy, unless coupled with supervision which would prevent secret understandings from taking the place of open combination, and put an end to practices which might enable the business men resorting to them to enjoy unfair advantages over their competitors.

In the light of this experience, and of the increasingly vigorous protest of business men against the interference of government with the course of business, an influential group of Democratic leaders advocated the creation of a trade commission to supervise industrial combinations, in somewhat the same way that the Interstate Commerce Commission supervised the railroads, and at the same time opposed any further amendment of the Anti-Trust Act. Radical Democrats, on the other hand, headed by Mr. Bryan, advocated legislation that would make the law against combinations at once more specific and more severe. For the vague "rule of reason" proposed by the Supreme Court they wished to substitute rules clearly laid down by Congress.

In undertaking to reconcile these opposing factions of his party, and secure the new anti-trust legislation which he deemed necessary, President Wilson attacked an even harder task than that which had confronted him in connection with the tariff and currency legislation. His success in accomplishing it attested at once the prestige which his leadership had come to enjoy and his remarkable capacity for reconciling conflicting opinions and persuading men whose views were really widely divergent to agree upon measures which could not in the nature of the case promote the ends which all had at heart.

The first important step toward the new legislation was the special message on the trust question which President Wilson read to Congress on January 20, 1914. This was almost immediately followed by the publication of four bills dealing with

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different phases of the subject, and the announcement that a fifth bill was in preparation. Although these bills were not officially endorsed as embodying the President's views, the opinion that he was behind them was widely held, as was indicated by the name at once given to them. They were called the "Five-Brother Bills," next of kin to the New Jersey "Seven-Sister Acts."

A review of the process by which these five measures were at length consolidated and amended into the two acts eventually passed, would be beside the purpose of this article.[1] The Trade Commission Act, approved on September 26, 1914, embodied substantially the views of the more conservative Democrats that supervision and the penalization of unfair practices were the supplements required to make the anti-trust policy of the government effective. The Clayton Act, approved October 15th, was in the main a concession to the more radical Democrats who desired national legislation along the lines of the New Jersey "Seven-Sister Acts." Incidentally it complied with the wishes of labor leaders and representatives of the agricultural interests in according to them different treatment than was accorded to the manufacturing and mining industries.

The principal provisions of the Trade Commission Act are:

(1) A Federal Trade Commission of five members, each to serve seven years at an annual salary of $10,000, is created to supersede the Bureau of Corporations.

(2) "Unfair methods of competition in commerce are declared unlawful."

(3) Prevention of such methods is made a chief task of the Trade Commission, which is empowered, when convinced that unfair methods are being used, and "that a proceeding by it in respect thereof would be in the interest of the public," to serve a complaint, hold a hearing, and order their discontinuance. If this order be not complied with, the Commission has power to appeal to a circuit court of appeals for an injunction. This

[1] Such a review is given in W. H. S. Stevens's excellent articles on "The Trade Commission Act" and "The Clayton Act," in *The American Economic Review* for December, 1914, and for March, 1915.

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court reviews the case, limited as regards questions of fact by the provision that "the findings of the commission as to the facts, if supported by testimony, shall be conclusive." The decisions of the court are exclusive and final, except that they may be reviewed upon certiorari by the Supreme Court. Appeal from orders of the Commission may be taken by persons affected to the appropriate circuit court of appeals, which may affirm, modify or set aside such order in the same way as though appeal for its enforcement had come from the Commission.

(4) The Commission is given power to investigate corporations engaged in interstate commerce, other than banks and common carriers.

(5) It may require from them annual or special reports and other information.

(6) On its own motion, or at the request of the attorney-general, it may investigate the manner in which decrees affecting industrial combinations are being carried out, and make public its findings, if it deems this wise.

(7) It may investigate any alleged violation of the anti-trust acts upon the direction of the president or either house of Congress.

(8) On the application of the attorney-general, it is required to investigate practices or arrangements not in conformity with the Anti-Trust Acts, and to recommend readjustments which will bring about such conformity.

(9) It is to make annual and other reports, holding inviolate, however, trade secrets and the names of customers.

(10) It is to classify corporations and make rules and regulations for the carrying out of the act.

(11) It is to investigate trade relations with foreign countries.

(12) On the request of a federal court it is to act as master in chancery in advising as to the form which decrees of the court relating to industrial combinations should take, the acceptance of such advice being, of course, discretionary on the part of the court asking for it.

(13) To accomplish these purposes, the Commission is given full authority to secure by subpœna all necessary information, documents, testimony etc., the penalty for failure to supply

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information or for destroying records being fines of from $1000 to $5000, and for delay in supplying information after thirty days' notice $100 a day for each day that the information is withheld.

(14) Special penalties are provided for employees of the Commission who are guilty of giving out unauthorized information.

The dominant note of this measure, therefore, is prevention rather than punishment. The Trade Commission is to investigate and, by its own reports and the reports required from the industrial combinations under its jurisdiction, secure the publicity which many students of the problem believe will by itself put an end to dubious and unlawful practices. It is to coöperate with the attorney-general and the courts in securing and maintaining compliance with the requirements of the law. On its own initiative it is to determine when unfair methods are being used, and order their discontinuance. To make clear that this part of its work is preventive rather than punitive, the injunction is relied upon as the sole means of enforcing orders of the Commission, and it is left to the courts to determine the penalties in cases where its orders are disregarded and the offenders are adjudged guilty of contempt. Finally, the Trade Commission Act is not technically one of the Anti-Trust Acts. It is not, in other words, a penal statute, but a statute designed to secure more equitable business relations through the machinery developed by courts of equity in their effort not to punish offences, but to prevent offences from being committed.

The Clayton Act—"an act to supplement existing laws against unlawful restraints and monopolies and for other purposes"—is by contrast a penal measure. Made up as it is of material drawn from four or five bills that were at one time under consideration in different committees of Congress, it lacks the simplicity and unity of the Trade Commission Act. Its principal provisions are:

(1) Price discriminations in connection with interstate commerce are declared to be unlawful, "where the effect of such discrimination may be to substantially lessen competition or tend to create a monopoly." Provisos permit differences based

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on grade, quality, or the quantity sold, on the cost of selling or transportation, or when "made in good faith to meet competition." Also the prohibition is declared not to prevent the selection of customers "in bona fide transactions, and not in restraint of trade."

(2) Exclusive selling or leasing contracts, whether of patented or unpatented articles, whose effect may be to "substantially lessen competition or tend to create a monopoly" are also declared unlawful.

(3) Damages due to acts in violation of these prohibitions, as well as the other prohibitions of the Anti-Trust Acts, may be sued for and recovered threefold.

(4) Final judgments or decrees in government suits under the Anti-Trust Acts are made, under certain limitations *prima facie* evidence in private suits, exception being made of consent judgments or decrees.

(5) It is declared "that the labor of a human being is not a commodity or article of commerce" and that

> nothing contained in the anti-trust laws shall be construed to forbid the existence and operation of labor, agricultural or horticultural organizations instituted for the purposes of mutual help, and not having capital stock or conducted for profit, [*sic*] or to forbid or restrain the individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations or the members thereof be held or construed to be illegal combinations or conspiracies in restraint of trade under the anti-trust laws.

(6) The acquisition of stock in one corporation by another, or the combination of two or more corporations through stock-ownership, where the effect "may be substantially to lessen competition . . . to restrain . . . commerce . . . or tend to create a monopoly," is prohibited. Provisos limit the application of this regulation in the case of common carriers developing branch lines, of subsidiary companies etc., and exclude existing corporate relations.

(7) Somewhat complicated limitations are imposed upon interlocking directorates. The provision relating to industrial combinations prohibits any person, after two years from the ap-

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proval of the act, from being a director in two or more corporations, any one of which has a capital of a million dollars or more, provided that the business carried on by such corporations be of such a nature "that the elimination of competition by agreement between them would constitute a violation" of the anti-trust laws.

(8) The same procedure created for the enforcement of the unfair-competition provision of the Trade Commission Act is prescribed for the enforcement of the above provisions of the Clayton Act, it being clearly indicated that Congress looks to the Trade Commission to serve the same purpose in connection with industrial combinations as does the Interstate Commerce Commission in connection with common carriers, and the Federal Reserve Board in connection with banks.

(9) Violations of any of the penal provisions of the Anti-Trust Acts by a corporation is declared to be also violation by the individual directors, officers or agents who have authorized, ordered or done the acts constituting such violation, rendering them liable to the familiar penalties of the Sherman Act.

(10) In addition to enforcement through the Trade Commission, backed by a circuit court of appeals, provision is made for enforcement through the district courts at the instance of the district attorneys, acting under the direction of the attorney-general, as in the original Anti-Trust Act.

(11) Individuals are permitted to secure injunctions to prevent the continued violation of the Anti-Trust Acts to their injury, exception being made of the common carriers.

(12) The conditions under which injunctions may be issued by the federal courts are laid down in great detail, as well as the procedure in contempt proceedings and the penalties that may be imposed. This was clearly designed to prevent the indiscriminate use of injunctions in connection with trade disputes, and to preserve to citizens enjoined from committing crimes the right to trial by jury, to which they would be entitled if proceeded against under the criminal law.

It is too early to judge of the extent to which this enumeration of acts which henceforth shall be unlawful, in the Clayton Act, has changed the existing law. It will be observed that in

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specifying offences great care has been taken to exclude acts of the same kind which are free from the objection of tending to restrain trade or create monopoly. It thus still rests with the courts, aided by the Trade Commission, to determine when price discriminations, exclusive contracts, interlocking directorates etc., are in violation of the Anti-Trust Acts. That such acts were already regarded under certain circumstances as involving violation of the Sherman Law is well known to every student of the decisions. The legislation has, therefore, merely enumerated as unlawful certain lines of conduct which even before the act was passed had come to be viewed as possible evidences of a criminal combination. Such enumeration serves at least one useful purpose. It makes clearer the obligation resting on business men to avoid entanglements which may lead them into violations of the law. That they may not disregard this obligation, the expert services of the Trade Commission are at the same time provided. The net results should be fuller compliance with the law and less occasion for prosecutions under it.

There is similar ground for uncertainty as to the importance of the exceptions made in favor of "labor, agricultural or horticultural organizations." Labor leaders and their legal advisers believe that this legislation goes far to relieve them from the penalties of the Anti-Trust Acts. Employers and their legal advisers point out that there was no legal obstacle to their "lawfully carrying out their legitimate objects" before, and that the law therefore remains unchanged. Only a decision by the Supreme Court can determine what, if any, change has been made in the law at this point.

There seems to be more basis for the confidence of labor leaders that the provisions with reference to the use of injunctions represent a substantial gain in the direction which they have long advocated. Until this language has been authoritatively interpreted by the Supreme Court, it would be rash to assert that it legalizes all forms of strikes and boycotts, so long as violence and intimidation are refrained from; but that would seem to the layman to be a reasonable construction of section 20 of the Act. Quite as important is the guarantee of the right of trial by jury in contempt cases, except where the contempt is com-

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mitted in the presence of the court. If it shall prove that through these provisions combinations of wage-earners and of employers, as regards their mutual relations, are freed from the restraints to which combinations of business men continue to be subject, we shall have an experiment in the combination field that will be full of interest. Employers and employees, acting through their associations and unions, will be compelled to work out their relations with little or no assistance from the courts. The holocaust of strikes and boycotts that some employers predicted, if the legal restraints on labor organizations were relaxed, has not materialized. The more probable consequence would seem to be a more rapid spread of collective bargaining and the eventual creation of a permanent industrial relations commission to promote better relations and prevent unfair practices.

Delegation to the Trade Commission of responsibility for securing compliance with the law is a recognition that prevention should be made more prominent than punishment. The retention at the same time of the older machinery for enforcement through suits started at the instance of the attorney-general, and the express inclusion in the liability of offending corporations of their responsible officers, directors and agents, indicate a fear that punishment may still be necessary to secure the enforcement of the law. Misgiving has already been expressed by one critic lest this dual machinery for enforcement shall cause confusion.[1] Some confusion may result from it, but, in view of the fact that to the Supreme Court is reserved the right of intervening upon certiorari as regards decisions of the circuit courts of appeals concerning orders of the Trade Commission, and that appeal lies directly to the Supreme Court from decisions of the district courts in suits started at the instance of the attorney-general, no serious obstacle would seem to stand in the way of authoritative determinations by that tribunal of important questions that may arise, whichever procedure is resorted to.

As a somewhat halting step in a new direction, the new Anti-

[1] Stevens, "The Clayton Act," *American Economic Review* for March, 1915, pp. 46–48.

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Trust Acts have been severely criticised as well as enthusiastically acclaimed. The official view at Washington, which is reflected in favorable comments in all parts of the country, is that through this legislation the solution of the trust problem has been attained. In voicing the contrary view, a recent speaker referred to the "Clayton Muddle Bill," and the "impotent Federal Trade Commission Act."[1] General considerations would dispose one to take middle ground between these extreme views, and this the more because as yet there has been no real test of the efficiency of the new legislation. Few business men entertain the illusion that the trust problem has been solved by this legislation. On the other hand, too great praise cannot be accorded to the President and his co-workers in Congress for securing the enactment of so excellent a Trade Commission Act and for thus laying the basis for reasonable regulation not only of competition, but, as time goes on, of combinations that shall be seen to be reasonable. With the creation of this Commission indiscriminate denunciations must give place to deliberate study of combinations and their effects. Reason may be slow to triumph, but from now on it is assured a hearing at the seat of government.

Owing doubtless to the difficulty of securing just the right candidates for the Trade Commission, the appointments were not made until shortly before Congress adjourned on March 4. The Senate confirmed only four of the presidential nominees; the fifth thus holds office as an interim appointment.

The Trade Commission, therefore, was not installed until nearly six months after the act creating it was approved. Moreover, it was handicapped at the outset by lack of suitable offices for the conduct of its business and by the meagerness of its appropriation in comparison with its gigantic task. In voting this scanty appropriation Congress was no doubt actuated by a desire to keep down expenditures in a period of falling revenues, rather than by any wish to curtail the effectiveness of this new branch of the government. It cannot be viewed as

[1] George W. Perkins, Address on "The Sherman Law" before the Economic Club of Philadelphia on May 22, 1915.

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other than mistaken economy, however, that the Trade Commission was launched with an appropriation barely sufficient to pay the commissioners' own salaries, in addition to the expenditures for the staff and equipment it inherited from the Bureau of Corporations. That it has proceeded with its task quietly and unostentatiously is, of course, highly commendable; but that it should not have the means, now that it has organized and adopted carefully drafted rules of procedure, to carry on its work on the broad scale and in the ample manner which the business issues at stake require, is unfortunate.

While conservative thinkers hesitate to express an opinion as to the efficacy of supervision as a means of correcting trust abuses, it is clear that the courts are increasingly reluctant to apply the penal provisions of the Anti-Trust Acts, and are thus disposed to leave to the Trade Commission the widest field for its activity. Since the legislation was enacted, suit after suit has been decided against the government. A circuit court of appeals has reversed the decision of the lower court holding the officers of the National Cash Register Company liable to criminal penalties, and the Supreme Court has refused to review the decision. The government's suits against the Shoe Machinery trust and the United States Steel Corporation have been decided adversely. Appeals are being taken in both cases to the Supreme Court, but without much confidence, apparently, that the views of the lower courts will not be sustained. On the other hand, the appeal of the International Harvester Company from the decision against it of the lower court is being pressed with more and more confidence that a reversal will be secured from the Supreme Court. Without venturing to express an opinion on the legal merits of these cases, the layman may be excused for receiving the impression that the "rule of reason," as applied by the courts, is rapidly broadening into the rule of business expediency.

At some points, and notably in connection with the provision against interlocking directorates, the new legislation is undoubtedly already influencing business practices. Not only are business men in every important financial center withdrawing from their responsibilities as directors, but their light-hearted attitude

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toward assuming such responsibilities has given place to careful consideration of the business relations of the new corporation to corporations with which they are already connected, and to procurement of legal advice. Though involving hardship at times, a change which brings home more clearly to directors in American corporations their responsibilities can only be a change for the better.

So far as the formal condemnation of industrial combinations and monopolies is concerned, the new legislation leaves us where we were before. There are indications, however, that among the first tasks of the Trade Commission will be a study of situations in which this condemnation is looked upon by business men as a serious handicap to our national industry. One of these relates to American competition in foreign markets. In such markets American manufacturers find themselves confronted by the monopolistic cartels of Germany and other countries. To meet this competition, they feel the need of similar combinations among American manufacturers. As was pointed out in a recent report of the Merchants' Association of New York, to push effectively American products in a foreign market, a selling agent should represent all the American firms seeking to develop trade in the particular line in that market; otherwise American competition itself will tend to discredit American products, and American manufacturers will all be worsted by the organized competition of the manufacturers of other countries. Under its authority to investigate foreign trade relations, the Trade Commission has already held hearings in the leading seaboard cities, designed to make articulate the demand of American business men for the right to combine in the development of foreign trade. Though the Commission has expressed no opinion officially, it seems evident from the character of the questions asked at the hearings that it sympathizes with this demand. A recommendation from it to the next Congress of a relaxation of the prohibition on combination as regards our trade relations with other countries will surprise no one. Since such a recommendation is likely to encounter slight opposition in Congress, legislation along this line may almost be predicted. Should this anticipation be realized, we

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shall be in the interesting situation of approving combination as a means of advancing our business interests abroad, while condemning it in connection with business at home. It would not seem a long step from such approval to relaxation of the Sherman Act all along the line. Such relaxation is particularly to be desired in connection with the common carriers, where we have in the Interstate Commerce Commission fully-developed machinery for regulation as a substitute for competition. A relaxation in the case of the common carriers would afford grounds for a demand for a similar modification of national policy with reference to industrial combinations. A few more reports like that posthumously issued by the Bureau of Corporations on the tobacco industry,[1] indicating that dissolution of the Tobacco Trust has simply served to increase the expense of carrying on the business without lowering prices to the consumer, will cause the public to lend a sympathetic ear to such a demand.

Another aspect that will receive the attention of the Trade Commission is the fixing of resale prices by the manufacturers of specialties, which has been held to be in violation of the Anti-Trust Acts. Among business men the opinion is widespread that the cutting of the prices of such products by retailers is a peculiarly obnoxious form of unfair competition. It will be interesting if the Trade Commission comes to take the same view, and prohibits as unfair the *cutting* of prices, the *fixing* of which by manufacturers has been condemned by the courts as a violation of the Anti-Trust Acts.

The very fact that we have in the Trade Commission a body competent to study these questions and to advise Congress with reference to them is the greatest merit of the new legislation. Whatever view be taken of the ultimate solution of the trust problem, all must agree that the new legislation should help us to study it rationally. Heretofore the bugaboo of monopoly has confused the public mind. Responsive to every demagogic arraignment of the octopus, public opinion has coerced our lawmakers into an attitude with reference to trust legislation which

[1] Part iii of the Report on the Tobacco Industry, March 15, 1915.

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has been emotional rather than rational. If the Trade Commission will serve to introduce the "rule of reason" into legislative halls as it has been introduced, somewhat arbitrarily perhaps, into judicial decisions, we shall at least be on the road to a solution of the trust problem. That that solution must combine, with the condemnation of the abuses of monopoly, regulation that will enable us to enjoy the benefits of coöperation and combination, is an opinion well nigh unanimous among business men, and more and more widely held in governmental circles.

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# GOING VALUE IN CONNECTION WITH A PHYSICAL APPRAISAL IN A RATE CASE

## THE NEW YORK RULE

*GOING value*, as the term is used in connection with public utilities, means, in general, the cost of building up the business, in addition to the necessary cash outlay for physical property and organization. It has been allowed by most of the commissions and courts of the country as an element to be included in the valuation of a property for the purpose of rate control, although for the most part it has not been clearly and precisely defined. It has been set forth perhaps most definitely in the state of New York, by the court of appeals in the Kings County Lighting Case.[1] The purpose of this paper is briefly to review "going value" under the New York rule, considering precisely what it is, how it should be calculated, and under what circumstances it should reasonably be allowed.

For the purpose of this discussion, it may be well to distinguish first between the different bases of valuation that might be used more or less satisfactorily in a rate case. We must remember that our task is not to determine the economic or commercial value of a property but to fix a valuation for the purpose of rate control. This fact is pointed out clearly by Justice Miller in the Kings County Lighting Case. The fundamental consideration is that the valuation be fair or just to the company or the investors. Rates paid by the public for the service should be as low as possible, but they must be fair to the company. They must cover all operating expenses, including depreciation and taxes, and must bring a reasonable return on a fair valuation placed upon the investment.

Since we have to do with valuation and not with economic value, we might use any one of the three following bases in determining the amount upon which a return should be allowed:

[1] 210 N. Y. 479.



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(1) appraisal of the property at cost of reproduction, less accrued depreciation; (2) appraisal at actual cost less accrued depreciation; (3) sacrifice incurred by investors in behalf of the property, including their direct investment through the issue of securities and their indirect sacrifice due to reinvestment of earnings and deficiency in fair return on the direct investment or on the reinvestment of earnings. Various other bases might be used, but those just mentioned are perhaps the more reasonable and are the ones that receive the most consideration by the commissions and the courts.

It should be emphasized that each of the above bases forms a distinct method of valuation by itself and might be used consistently as a valuation policy without reference to any other. The method that has been used most commonly in valuation is the first—physical appraisal at cost of reproduction, less accrued depreciation, which was followed and approved also in the Kings County Lighting Case. It has received the sanction of the Supreme Court of the United States and for the most part seems to form the valuation policy of the country. In its application to particular cases it has been variously modified with reference to other bases of valuation, as dictates of justice have seemed to demand. It is, nevertheless, an independent method and has no necessary logical connection with any other. Perhaps it should justly be modified under special circumstances, but as a method it is complete in itself.

Going value, as defined by the New York court of appeals, is a category or element that belongs fundamentally not to basis number one, cost of reproduction less accrued depreciation, but to number three, actual cost or sacrifice incurred by investors. It is not a necessary cost to be included in a physical appraisal. If it is allowed, its inclusion must be justified on the grounds of justice and not on general principle followed in the valuation. In general, the court looks to the appraisal as the legal basis of valuation, and seems to approve the cost-of-reproduction method, but insists nevertheless that for the sake of justice allowance must be made for going value.

The court defines going value in any case as

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the amount equal to the deficiency of net earnings below a fair return on the actual investment due solely to the time and expenditures reasonably necessary and proper to the development of the business and property to its present stage, and not comprised in the valuation of the physical property.

This formal definition is amplified by other expressions of the court, which may well be quoted:

A public service corporation is entitled to a fair rate of return from the beginning of its investment and no more. If the shareholders have been deprived of a fair return on their investment because of the time and expense reasonably and properly required to build up the business, they have, to the extent of that deprivation, added to their original investment and are entitled to a return upon it. If, however, a fair return in addition to the expense of building up the business has been earned from the start, the public, not the shareholders, have paid the development expenses. We are dealing not with exchange values, but with the value upon which the company is entitled to earn a return. . . . The right to limit the corporation to a fair return fixed by public authority necessarily involves the correlative right in the corporation to be assured of that fair return during all the time that its capital is employed in the public service.

If, however, a company has received a fair return

from the start, or if in later years it has received more than a fair return, the public would already have borne the expense of establishing the business in whole or in part, and to that extent the question of "going value" for the purpose of fixing a present rate would be eliminated; for it must constantly be kept in mind in dealing with the problem that the company is entitled to a fair return and no more. . . . If there was a fair return from the start, the corporation has received all it was entitled to, irrespective of how much of the earnings may have been diverted to the building up of the business.

Briefly stated, going value is the accumulated deficiency in fair return on actual investment. The company has a right to such a fair return and no more. If this has been realized, there is no going value. If it has not been realized, then, if the deficiency is accumulated with reasonable compound interest, and

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is added to the original investment on which future returns are allowed, the investors will clearly receive their just dues according to the principle laid down. The total valuation is then the actual cost or sacrifice incurred in behalf of the public service. This clearly is the valuation defined above as the third basis. It has, we may repeat, no necessary logical connection with a valuation fixed by physical appraisal according to basis number one.

The precise method of determining the total deficiency in return is not made very clear by the court, and presumably is left to the discretion of the Public Service Commission. In calculating going value, the court suggests that

> obviously, the most satisfactory method is to show the actual experience of the company, the original investment, its earnings from the start, the time actually required and expenses incurred in building up the business, all expenditures not reflected by the present condition of the physical property, the extent to which bad management or other causes prevented or depleted earnings, and any other facts bearing on the question, keeping in mind that the ultimate fact to be determined is not the amount of the expenditures, but the deficiency in the fair return to the investors due to the causes under consideration. . . . The fair return is to be computed on the actual investment, not on an over-issue of securities, and the failure to pay dividends to the investors must be due to the causes under consideration, not to an accumulation of a surplus or to expenditures for permanent additions or betterments, which are included in the appraisal of the physical property; in other words, the actual net earnings are to be taken.

These instructions, if they be such, leave one somewhat uncertain how to proceed with the calculation. They go no further than the definition: going value is deficiency in return; it must be determined and added to the amount of the original investment. Upon this valuation, then, the company has a fundamental right to a fair return, and to no more. The calculation may take one of two forms: (1) an analysis of the annual net earnings as compared with fair returns on the investment; (2) an analysis of interest and dividends or money actually received by the investors. On the face of it the first method

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may appear the more satisfactory, but it involves longer and more complicated calculations, and finally is equivalent to the second. The facts for the second can usually be readily obtained and presented in a clear tabulation. A six-column table may perhaps be used most conveniently; the first column should show the average direct investment year by year through the history of the company; the second should show the fair return that should be realized year by year; the third, the amount of money actually taken by investors as interest and dividends; the fourth, deficiency in return year by year; the fifth, the accumulated deficiency year by year, compounded at a fair rate of interest; and the sixth, the net total sacrifice or cost to investors at the close of each year. When the actual return for any year is greater than the fair return on the direct investment the deficiency is negative, or there is an excessive return, and the amount must be subtracted from the accumulated deficiency from previous years. If the accumulated deficiency becomes wholly extinguished, and if then excessive returns continue, the calculation in column five should be carried to a negative amount with compound-interest allowance, for subsequently the negative accumulation may again be counterbalanced by deficiencies in annual return. The final net figure in column five will show the total net deficiency to be added as going value to the original investment, or the net excessive return, which logically should be deducted from the original investment to show the net sacrifice to the company.

The above general statement may be made clearer by illustration. Suppose we take a five-year period, assuming a $100,000 direct investment through the issue of securities for the first year and $200,000 thereafter, and that the actual return or money taken from the business amounted year by year to $2000, $8000, $16,000, $22,000, and $28,000; and that the reasonable return is at the rate of eight per cent on actual investment. The calculation for going value and total sacrifice may then be stated as follows:

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| YEAR | AVERAGE DIRECT INVESTMENT | REASONABLE RETURN AT 8% | ACTUAL RETURN MONEY TAKEN OUT | DEFICIENCY IN ACTUAL RETURN | ACCUMULATED DEFICIENCY AT 8% | NET INVESTMENT AT THE CLOSE OF THE YEAR |
|---|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) | (6) |
| 1 | $100,000 | $8,000 | $2,000 | $6,000 | $6,000.00 | $106,000.00 |
| 2 | 200,000 | 16,000 | 8,000 | 8,000 | 14,480.00 | 214,480.00 |
| 3 | 200,000 | 16,000 | 16,000 | 0,000 | 15,638.40 | 215,638.40 |
| 4 | 200,000 | 16,000 | 22,000 | —6,000 | 10,889.47 | 210,889.47 |
| 5 | 200,000 | 16,000 | 28,000 | —12,000 | —239.37 | 199,760.63 |

Column one shows year by year the money put into the business directly through the issue of securities; column five shows the accumulated deficiency at the close of each year; and column six the net total cost or sacrifice at the close of each year. Suppose at the close of the fourth year there is a rate case. There is then direct investment, $200,000, and deficiency in return, $10,889.47, or net cost or sacrifice to the investors $210,889.47. If rates for the future are fixed high enough to cover all operating expenses and to bring a reasonable return on this valuation, the investors will receive all that they are entitled to receive and no more.

But in the ordinary rate case, as in the Kings County Lighting Case, the valuation is fixed primarily not by the actual sacrifice incurred by investors but by an appraisal of the physical property devoted to the service, on the basis of cost of reproduction less accrued depreciation. Obviously, the result of such an appraisal has no direct relation to sacrifice incurred by investors; it may be much greater or much smaller. Going value, as stated before, is fundamentally an element of cost or sacrifice to investors and not of a physical appraisal. The only way by which it may be allowed in an appraisal is, therefore, through an addition to the valuation on the grounds of justice.

If, then, the primary basis of valuation is the physical appraisal at cost of reproduction less accrued depreciation, under what circumstances precisely shall an addition be made to the result of the appraisal because of deficiency in return? The court leaves this very important question unanswered, except by inference. There is the general rule that at any particular time a company has a right to a fair return on its property employed in the public service, but also that it has had a right to earn a fair return on its actual investment and no more. Sup-

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pose, then, in the primary actual cost calculation, a net deficiency in return is shown, shall this be added to the physical appraisal whatever the amount? Or, the other way about, if the primary calculation shows no deficiency or reveals excessive returns, shall no addition be made to the appraisal for going value even though the valuation be much less than the net sacrifice of the investors?

If the physical appraisal is to be followed and if going value is still to be allowed, then, obviously, provision can be made only by comparing the results of the appraisal with the amount of the total sacrifice and by making such adjustments as may seem reasonable, under the general rules of justice laid down by the court. The following is, then, perhaps a fair interpretation of the court's view of going value as related to a physical appraisal. The company in any event must be considered as having a right to a reasonable return on its actual sacrifice for the benefit of the public. If the physical appraisal results in a valuation equal to or in excess of such sacrifice, then no addition need be made for going value, although actually there had been a deficiency in return, for the valuation already provides for a return that comprehends the total sacrifice made—which is all the company is entitled to receive. If, however, the appraisal shows an amount less than the sacrifice, then an addition must be made to bring the amount up to the sacrifice, on which the company is fundamentally entitled to a return. The addition, of course, may be greater or less than the amount of the deficiency in return shown in the actual cost calculation, but it is nevertheless better considered as going value. In general, going value as thus applied to a physical valuation is the difference between the net actual sacrifice of the investors and the amount of the physical appraisal. This obviously is not the same as the going value which is shown in the primary actual cost or sacrifice calculation. The change in concept is due to the shift in basis of valuation—from actual cost, of which going value is primarily an element, to a physical appraisal, which fundamentally has nothing to do with going value.

The above general statement of the treatment of going value in a physical appraisal may be made clearer by illustration.

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Assume a direct investment through the issue of securities amounting to $500,000, and a deficiency in return as going value of $100,000, or a total sacrifice of $600,000. First, assume that because of investment of earnings and through increase in prices the physical appraisal of the property results in a valuation of $800,000. The question is, according to the New York rule, shall there be an addition to the $800,000 physical appraisal for the $100,000 deficiency in return shown on the sacrifice basis of valuation? The company would certainly argue that the addition should be made, and the court has not met this question squarely. But the court holds that the company is entitled to a reasonable return on its investment and no more. If then, in this case, the physical appraisal gives a valuation $200,000 greater than that on which the company is entitled to receive a return according to the definition of going value, it would seem absurd to add $100,000 to the appraisal. What reason or justice for the addition? Comparing the result of the appraisal with the total sacrifice for the public, we have already more than covered any past deficiency in return.

Suppose, however, that with the investment and deficiency in return amounting to $600,000 as before, the physical appraisal shows a valuation of only $400,000. In this case, the court presumably would require an addition of $200,000 to the physical appraisal, although the going value in the primary actual cost calculation was only $100,000. The public should pay through the rates all operating expenses, including the complete maintenance of the property, and should pay a return on the investment. In this case, it has failed in its obligation to the extent of the deficiency in return and the impairment of the property. If the property was fairly managed the public must bear the loss. The company must be paid for its actual investment. Future rates must bring a fair return on the total sacrifice made for the benefit of the public. There must be an addition of $200,000 for going value, although there was only $100,000 of deficiency in return in the primary calculation.

Further, suppose that in the calculation showing the investor's sacrifice no deficiency in return or going value appears, but

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that on the contrary there is a substantial excessive return or negative going value. If under such circumstances the physical appraisal results in a figure equal to or exceeding the original investment through the issue of securities, no question of going value can, of course, be raised. But if the appraisal is less than the original investment—$400,000 as against $500,000—then what adjustments should properly be made? Shall the future return be based upon the full original sacrifice or upon the amount of the appraisal? Or shall the accumulated excessive return be subtracted from the original investment, provided that the net valuation be not less than the figure of the appraisal? The last would seem to be the more reasonable adjustment, for it would conserve the principle that the company has a right to a reasonable return on its property, and at the same time would enforce to some extent the idea that a company has a right to a fair return on its actual investment, and no more. The court's rule gives no clear intimation how this situation should be treated.

The question may be raised as to what effect accrued depreciation, or past provision for depreciation through operating expenses, has upon going value? So far as the primary calculation is concerned, obviously the question of depreciation does not enter into the problem of going value at all. The fundamental calculation is concerned only with sacrifice and return, so that depreciation clearly is not a factor. But it must be considered in the physical appraisal. By definition or extensive court sanction, this appraisal valuation consists of the cost of reproduction new of the property less accrued depreciation for wear and tear and obsolescence. The accrued depreciation subtracted from the cost new has, of course, no connection with any depreciation reserve established on the books of the company or any depreciation charges included in past operating expenses. When the physical appraisal with allowance for accrued depreciation has been made, then, as already explained, if the valuation is less than the total investor's sacrifice, the difference should be added as going value. Depreciation appears therefore only indirectly in the consideration of going value—through the appraisal and not through the primary calculation of deficiency in return.

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The language of the court clearly implies that the fundamentally just and proper basis of valuation is the actual sacrifice incurred by investors for the benefit of the public service. But, because of firmly established precedents, the court was practically compelled to follow the appraisal method of valuation. In so far, however, as this method is modified by the decision, it apparently works entirely to the advantage of the company. The actual sacrifice seems to be a fixed minimum valuation in any case. If the appraisal gives a result greater than that amount, then the appraisal stands unchanged; but if less, then the difference is added as going value, so that the official valuation is never less but may be much greater than the actual sacrifice. Since in the majority of cases, however, the physical appraisal will probably give a figure considerably greater than the actual sacrifice, it seems that the allowance for going value in the comparatively few cases where the actual sacrifice is greater than the physical appraisal, is a somewhat excessive labor for justice. As a matter of fact, the actual-sacrifice basis of valuation appeals strictly to one's sense of justice. If, when a physical appraisal shows a lower valuation, an addition is made equal to the difference, why, logically and justly, should not a deduction be made equal to the difference when the appraisal is greater? Why provide only for additions and not for subtractions? Does justice work only the one way?

In view of the above considerations, it may be well to suggest that the necessary existence of going value should not be assumed in a case. Its existence and the amount should be fairly proven by the company, or it should be denied altogether. To be sure, the court places the duty upon the Commission to determine the going value according to the best evidence available, and not to consider it vaguely or to brush it aside without consideration. But suppose there is no evidence, or that the evidence submitted shows nothing, then should going value still be allowed? Shall we assume deficiency in return in the absence of facts to the contrary? Is evidence that $30 a meter is usually a fair allowance for building up the business worth anything in establishing deficiency in return in a case? The determination, it seems, should rest upon specific facts and not on

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general rules. If the facts are not available, shall an utterly arbitrary allowance be made? To be sure, the Commission should not ignore evidence of going value or attach insignificant importance to it, but if the evidence that is offered fails to indicate deficiency in return, or has no connection with it, and if no clear evidence can be obtained, then what shall be done? Considering that, in the majority of cases, the physical appraisal more than satisfies the fundamental principles of justice set forth by the court, it seems that going value should not be allowed unless it is clearly shown to exist.

To establish going value fairly definitely even in the ordinary case is a difficult matter. Usually the accounting records are incomplete, so that the necessary facts of direct investment and return cannot be satisfactorily established. Rough approximations must be made even under the most favorable circumstances. But in the case of a large company, operating directly a number of more or less distinct properties and controlling through stock ownership groups of other companies, the problem of determining going value becomes an exceedingly difficult one. How are the securities outstanding to be apportioned so as to show the direct investment in a particular property? And how is the money paid out in dividends and interest to be divided between the different properties? Any apportionment of investment or return will be arbitrary.

Securities are not tagged according to the use of the proceeds for particular investment purposes, and the money paid out to the investors cannot well be traced as coming from particular sources of income. The calculation can be made only roughly. Of course the basis of determining the annual investment may be shifted from the money put into the property through the issue of securities to the fixed property as shown by the books of the company. If we assume ideal bookkeeping and ideal financial management, this would undoubtedly be the most desirable basis, and then the deficiency in return could be calculated according to net earnings from operation. The difficulty with this procedure, however, is that the fixed property accounts usually have not been kept in an ideal manner. Apart from incomplete records, the book figures may show greatly inflated

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original costs, so that the results based upon them are not trustworthy. No general procedure can very well be prescribed in complicated cases. The facts must be considered separately for each case according as they may be determined. But the primary object must always be to set forth the actual investment year by year together with the return realized by investors and to calculate going value accordingly. To do this, rather rough approximations must sometimes be made in a case.

It should be observed that if we take for direct investment the property as shown by the accounts of the company, instead of the money put into the business through the issue of securities as assumed in this paper, then the calculation showing deficiency in return should be based on net earnings and not on the money actually taken out of the business by the investors as interest and dividends. In such a case past records of balance-sheet and income-account items should be fairly complete. If net earnings be used, then, unless purely arbitrary charges are made to inflate the property accounts, it will make no difference for the purpose of the calculation whether the proper distinction between charges to property and charges to income is maintained or not. If a given outlay, which should go to operating expenses, is wrongly charged to property account, then clearly the direct investment in our calculation will be overstated, while the deficiency in return will be understated, but the net investment will remain unchanged. The same is true the other way about. But, if the money taken out of the business is taken as return to investors, then an improper charge to property overstates the direct investment and does not diminish the deficiency in return, so that the investors clearly gain through the error; or they lose if an improper charge is made to income which should have gone to property.

Considering the difficulties and uncertainties involved, one is tempted to raise the question whether justice really demands the allowance of going value in a rate case? In the past, we must remember, each company for the most part charged such rates as the business would warrant, without reference to operating costs or investment. It made all the profits that it could. If now, therefore, when more active regulation is imposed, the

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existing property used in the service is valued according to current methods of appraisal, reasonable justice would seem to be amply regarded. Perhaps in the majority of cases the past is an uncertain matter. If then we were to forget the past, and were to place a valuation upon existing property either at cost of reproduction or, as nearly as may be determined, at actual cost, with reasonable allowance for accrued depreciation, what grave injustice would be brought upon the corporations? In determining social policy, should we not regard questions of justice from a broad standpoint? If a valuation policy in general brings substantial justice to investors, what more may be desired? Certainly if refinements are attempted, requiring additions to a physical appraisal on account of deficiencies in return, deductions should be made for excessive returns. In some cases such deductions would wipe out all investment and leave a net liability to the public. But if it appears unwise to provide for deductions as well as for additions, why require any modifications of a physical appraisal?

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# RAILWAY RATE THEORY AND PRACTICE IN THE LIGHT OF RIPLEY'S "RAILROADS"[1]

THE seventy-five years or so that have intervened between the publication of Henry Fairbairn's *Treatise on Political Economy of Railways* (1836) and of W. Z. Ripley's *Railroads* (1912, 1915) have been replete with attempts to discuss one or another of the problems connected with the development of railway transportation. Though many of these attempts have resulted in but ephemeral productions of practically negligible scientific value, the record is redeemed by the work of men like Sax, Cohn, Colson, Picard, Lardner, Acworth and others. Among those that have been successful in achieving distinction, the little volume on *Railroad Transportation* by A. T. Hadley still maintains a position of leadership, and with this production of an American scholar one compares, instinctively, the recent volumes of Professor Ripley.

Writing a generation after Hadley, Ripley has been fortunate in having at his disposal a mass of data, largely arising out of the activities of Congress and of its instrument, the Interstate Commerce Commission, that has enabled him to illuminate his discussion with an almost overpowering wealth of illustration. His pages show an admirable acquaintance with the American literature of railway economics, but draw little upon the corresponding European literature. In connection with this fact may be noted one great difference between Hadley's treatment and that of Ripley. To Hadley the problems of railway transportation were international, so to speak: to Ripley they are national, and he feels competent, therefore, to interpret them with little or no reference to the experience of other countries. No doubt there is some justification for Ripley's restriction of his field of survey, though the titles of his volumes by no means indicate this; but it must be recognized that the gain of minuter analysis is secured at the loss of that broader understanding of the railway problems of this country to be obtained from the comparative study of the economic status of other national systems. The opportunity for such a study, moreover, was an attractive one. The sources

[1] Railroads. By William Z. Ripley. New York, Longmans, Green and Company, 1915.—xix, 638 pp. The writer of the following review hopes to supplement it with a further one in which will be discussed the problem of regulation as presented by Professor Ripley in his recent work.



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open to Hadley had been vastly enriched by the writings of Colson, Hamon, Leygue, Milhaud, Varret and Guyot in France; of Kupka, Neményi, Hüber, von Weichs-Glohn, Rank, von Kaufman, Ulrich, Lotz, Cohn, Grunzel and Kech in Germany and Austria; of Tajani and Jonnelli in Italy, to say nothing of the work of numerous others. Professor Ripley's right of choice must be admitted, but may it be permitted to regret the choice made? Moreover, if his work is to be regarded as a general treatise on the economic and social problems of railway transportation, there are some conspicuous omissions. In spite of numerous previous attempts, there was still ample room for careful discussion of the theory of state control in railway management, and of the problem of actual management of the railway industry by the government. Excellent as is the author's treatment of the history of federal regulation in the United States, one cannot help but wonder why he should have neglected, so markedly in his first volume, the part played in railway regulation by the individual commonwealths. Yet, if the scope of treatment is open to criticism, there is, on the other hand, much to be said in praise of the manner in which the topics undertaken are handled. Rate discriminations, the rate structure, federal legislation and regulation, railway capitalization and financial policy, railway coöperation, are all discussed for the United States with a copiousness of appropriate detail that will secure for the treatise a prominent place in the permanent literature of railway economics. Not that Ripley is to be regarded as a discoverer of new principles; his conspicuous merits, indeed, are those of the recorder and interpreter. But he has assimilated, with uncommon skill, the discouragingly scattered sources of information, and has presented them in a way that wins appreciation, even where, here and there, it does not carry conviction. Future investigators into the economic problems of American railway transportation will be deeply indebted to him for the solid foundation that he has provided for their further researches.

In what is, indubitably, the most important part of railway economics, the theory of rate-making, Ripley's predecessors had still left much to be done. The theory of rate-making is part and parcel of the theory of prices in general, one of the most interesting divisions of the science of political economy. But while the theory of prices is comparatively simple when based upon hypotheses of single production and perfectly free competition, it becomes highly complex when the suppositions of joint cost or monopoly are introduced. Such complexities, present to a high degree in the phenomena of railway prices, account, no doubt, for the slow progress in scientific analysis that has been made. In this

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part of the field, Hadley's work, excellent though it was, can hardly be regarded as more than rough pioneering. Yet the disposition was to accept his explanation of the principles of rate-making as sufficient; it had the merits of simplicity and clearness. The more unquestioned Hadley's theory was, the greater the barrier it proved to that intensive examination of the underlying factors of railway price-making, out of which alone a really satisfactory theory could be evolved. Hadley's essay has been supplemented by the special analyses of several economists, attracted, in passing, by the problem of railway rates; but contributions such as those of Taussig, Lorenz, M. H. Robinson, J. M. Clark and Edgeworth, illuminating even when their logic is not always entirely acceptable, fail to present a rounded-out theory of railway rates. Nor can it be said that the specialists in railway economics, writers like Acworth, Johnson, Noyes, Newcomb and others, have been more successful. However, one must not fail to recognize that the work done by all of these represents important and necessary preliminary surveys. To continue the surveying metaphor, the task left to Ripley was the determination of the line of actual location, the reduction of a grade in one place, the easing-out of a curve in another, perhaps the substitution of a more direct route in still another place, all this demanding close and careful examination and the constant exercise of a matured and balanced judgment. Needless to say, the task has been performed with considerable success. The fact that this review lays emphasis upon points of criticism rather than of approval must not allow the general excellence of Ripley's work to be underestimated.

From the point of view of price-making, the railway may be either competitive or monopolistic. Ordinarily it is not a perfect example of either, and, for that reason, it has often been termed a partial monopoly. As to whether, on the whole, the railway is more competitive than it is monopolistic, or vice versa, is a question requiring nice consideration. Perhaps the public at large is apt to credit the railway with even more monopolistic power than it possesses, not recognizing that while adjustability of railway rates may indicate monopoly, it may be, in part at least, nothing more than the result of the production of different services of transportation at joint cost. However, the significant fact for our present discussion is that both competitive and monopolistic influences tend to enter into the price-making of the railway, and that, in so far as the former are effective, the railway rate tends towards the cost of production of the service covered by it, and, in so far as the latter are effective, the rate tends towards the maximum demand price of the user of the service.

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Approaching the problem from the first-named side, one is immediately confronted with the necessity of examining costs of production —in other words, the nature of railway expenditures.

There are two important questions that arise in connection with railway expenditures. Do they increase uniformly with the increase of traffic? Are they distinct and separable with respect to the various services of transportation, or are they joint and inseparable to any degree? To the former of these questions Professor Ripley addresses himself first. In any industry requiring the use of capital goods, a certain proportion of the total expenditures consists of interest and other fixed charges upon the capital, which, within the capacity of the plant as established, do not vary, closely at any rate, with the amount of goods produced. Besides these so-called "fixed" charges, there are certain operating expenses that respond more or less slowly to the oscillations of productive activity, notably, those connected with the general supervision of the establishment and general maintenance of the plant. Both of these kinds of expenditure may be roughly described as "constant." Their relative amount as compared with the remaining variable expenses depends upon the nature of the business. Several writers, Sax, Acworth, Eaton and others, have made estimates of the proportion of constant expenditures in the railway industry. Quite commonly such estimates are lacking in precise and detailed analysis, very frequently arising from the absence of an intimate and practical knowledge of the real nature of railroad expenditures, so that their accuracy is open to doubt. Professor Ripley's analysis brings out clearly enough the fact that important proportions of maintenance and transportation expenditures may be properly regarded at any given time as "constant," but, with due respect to the interesting presentation, his estimate is of no particular statistical value since it is not worked out in sufficient detail to justify the precise ratio of "constant" to "variable" expenses, two to one, that he choses to adopt. Not that this estimate is an improbable one. It is in substantial agreement with those of Shirley Eaton, an experienced railway statistician, and Julius Kruttschnitt, a prominent railway executive. A generation or more ago, Emil Sax placed the ratio at three to one, but Sax was basing his figures on European railway experience of his day which found capital investment comparatively high, traffic comparatively scanty, and operating expenses comparatively low. Ripley does not discuss Sax's estimate, however, though it affords a convenient opportunity of pointing out that the ratio of constant to variable expenses may be affected by the size of the fixed capital investment, the density of traffic and the

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general level of interest as compared with the levels of prices and of wages.[1]

The influence of the "constant" factor upon actual rate-making lies in the fact that traffic, unsecurable at average rates, may be taken at less than those rates if no change in the amount of the fixed charges is caused thereby and if all additional operating expenses are covered. Actually, there will be no inducement to accept such traffic unless it will be able to more than cover these out-of-pocket expenses, unless, indeed, anticipated expansion of traffic promises, by its effect upon operating costs, to provide an appreciable contribution towards capital expenses at an early date. The acceptance, at low rates, of business otherwise unremunerative benefits traffic previously secured to the extent that the burden of charge upon the latter is mitigated, and concessions in rates thereby made practicable. Of course, it is conceivable that effective monopoly may reduce the unwillingness of the railroad to make these concessions, though, even under these conditions, the chance of reduced rates fostering the development of the old traffic so as to give increased profits will be very influential in predisposing traffic managers towards concessions on previously established rates.

But successive increments of new traffic will finally bring the railroad to the saturation point of utilization of its already invested capital. Expansion of track, yard and station facilities, as well as of equipment, becomes necessary. Generally speaking, expansion is made before the complete saturation point is reached, for, if the writer is not mistaken, the unit cost of transportation service tends to increase during the period of growing congestion that leads to the point of theoretically complete saturation. Thus pressure is automatically brought to bear upon the railroad managers to provide additional facilities. A reduction of transportation costs at once ensues, which may be so extensive as even to take care of the charges upon the new capital. But if this is not achieved, the increased traffic capacity of the railroad makes feasible the stimulation of traffic by low rates which, as already indicated, assist in bearing the burden of the capital charges by the difference between the revenue that they produce and the (probably reduced) transportation expenses (brought about by the enlarged scale of operation).

Professor Ripley's explanation of the influence of the "constant"

[1] He deals with the variation of the "relative distribution of outgo" as between different railroads, and on the same railroad as between different years, but his attention seems to be concentrated entirely on operating expenses.

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element of railway expenditure upon rate-making is in harmony with the foregoing statement, though he seems to fail somewhat in emphasizing sufficiently the important bearing, upon the general rate level, of the tendency towards greater economy of operation produced by the increased density of traffic that results from the additional business secured by the discriminatory rates. However, he presents the facts from which this is deducible.

Some nine years ago, Mr. M. O. Lorenz contributed to the *Quarterly Journal of Economics*[1] a short article on "Constant and Variable Railroad Expenditures and the Distance Tariff," in which was included a table comparing, by index numbers, the growth of ton mileage, passenger mileage, earnings and total operating expenses, with that of the different departmental operating expenses for the period 1895–1906, both years inclusive. This table hardly seems to bear out the usual notion as to the relation of constant to variable expenses. Maintenance of way and structures seems to be a more variable expense than that of conducting transportation; and maintenance of equipment expenditures shows a growth considerably in excess of the increase of traffic. By reason of a change in the details of the accounts, Mr. Ripley finds it impracticable to extend the comparison beyond 1906, though, by the way, the year 1907 might have been added, as these changes did not affect the returns of that year. He expresses the hope that, with the revised statistics, it will be possible, in the course of time, to secure a clearer definition of the relationship of operating expenditures to the growth of traffic. Out of curiosity the writer has had calculated the index numbers, for the period from 1908 to 1913 inclusive, for four leading railroads of markedly different economic environment.[2] The figures are too limited in scope to prove anything of importance, but it is interesting to note that, so far as they go, these statistics which, according to the new methods of reporting, distinguish somewhat more effectively (at any rate in the matter of equipment) maintenance from additions and betterments, still fail to reveal that very marked influence of the "constant" factor which one naturally expects to find.

[1] Vol. 21, p. 283.

[2] Acknowledgment is due to Mr. C. Y. Hsü, a graduate student, for the calculations upon which the table is based. The results of the calculations are set forth in the table on the following page.

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| | TON MILES | PASSENGER MILES | MAINTENANCE OF WAY AND STRUCTURES | MAINTENANCE OF EQUIPMENT | CONDUCTING TRANSPORTATION | GENERAL EXPENSES |
|---|---|---|---|---|---|---|
| | All Railways (U. S.) Lorenz | | | | | |
| 1895 . . | 100 | 100 | 100 | 100 | 100 | 100 |
| 1906 . . | 254 | 206.5 | 216 | 288.8 | 194 | 166 |
| | New York Central and Hudson River R. R. | | | | | |
| 1908 . . | 268 | 296 | 248 | 304 | 202 | 202 |
| 1913 . . | 340 | 395 | 385 | 530 | 257 | 303 |
| | Southern R. R. | | | | | |
| 1908 . . | 310 | 340 | 219 | 477 | 334 | 134 |
| 1913 . . | 415 | 472 | 286 | 590 | 388 | 175 |
| | Illinois Central R. R. | | | | | |
| 1908 . . | 380 | 300 | 258 | 435 | 262 | 274 |
| 1913 . . | 465 | 364 | 336 | 640 | 367 | 328 |
| | Great Northern R. R. | | | | | |
| 1908 . . | 383 | 580 | 400 | 670 | 371 | 105 |
| 1913 . . | 450 | 899 | 520 | 770 | 485 | 150 |

In the department of maintenance of way and structures some amount of capital expenditure is still likely to find a place among operating expenses; but, in the case of maintenance of equipment, the error caused by this practice should be minimized since 1907 by the revised statistics. Yet remarkable variability still reveals itself, apparently, in all departments. However, Ripley points out that such a table as that of Lorenz is difficult of interpretation, not only by reason of the probability of the inclusion of considerable expenditures for future growth in its operating figures, but also by reason of the disturbance created by increased prices of materials and wages of labor. He could also have mentioned the possibility of deferred maintenance being made good by the operating expenditures of prosperous periods. Attention might also have been drawn to the fact that the basis of comparison changes. New lines and additional branches are added to the original mileage and, for a while, these are apt to swell operating expenditures more than in proportion to the increase of traffic.

Undoubtedly, there is considerable inelasticity in operating expenditures over short periods and for moderate variation in the amount of traffic, but the above figures, even when corrected, seem likely to point to a large degree of elasticity over longer periods and for more important variations in the amount of traffic. To the extent that this is so, the

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so-called "constant" element of operating expenditures should not be allowed, in the interests of the railway itself, to exercise too marked an influence upon railway rates, except in so far as these are special and temporary. Of course this does not interfere with the effect of that element of constant expenditure represented in fixed charges, whose influence on the rate-making may be very marked on account of the long period which may ensue before the capital investment corresponding to these charges is fully utilized.

In further analysis of the nature of railway expenditures, an interesting question arises as to the extent to which they give rise to increasing returns. Professor Ripley discards the idea that marked economies of large-scale production characterize railroad operation. The law of increasing returns applies, nevertheless, because fixed charges up to a given point of saturation tend to remain constant, thereby becoming proportionately less as the volume of business expands. Of course the significance of the qualification in the phrase "marked economies" is somewhat vague, but there is little doubt in the mind of the writer that the economies are very appreciable. The whole record of railway performance seems to point to this. Indeed, in one of his tables Ripley quotes figures for a period of twenty-six years (1880–1906) showing that rather less than a fourfold increase in operating expenses brought about from five to sixfold an increase in traffic units. Strictly speaking, the comparison of the increase of traffic units should be made with the increase not merely of operating costs, but of these plus the fixed charges that represent the cost of capital, in accordance with the accepted definition that the law of increasing returns holds good whenever successive applications of capital and labor result in a more than proportionate increase in the product. If this had been done in the case of Ripley's table, and corrections had been made for increases in the scales of prices and wages, there is little doubt that increasing returns would be still more distinctly marked.

A question arises as to the propriety of regarding the railroad industry as an instance of increasing returns if such returns are to be regarded as merely the reflection of the fiscal conditions attaching to heavy capital investment. If Ripley is justified in this, then any industry that shows, over a period of years, a decided tendency towards constant cost may, nevertheless, be classed as one of increasing returns, because of the fact that its capital, being impossible of application in a more or less continuous series of doses, necessarily finds its charges per unit of production diminished as the previously unutilized productive capacity of each large investment is taken up.

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This is not a terminological quibble. It may be conceded that the fiscal phenomenon is important in its influence upon current rate-making, but it is still more important to know whether the successive installments of capital and labor, applied in the manufacture of transportation, tend to increase in productive efficiency. Upon this depends the possibility, among other things, of permanently lower rates or of permanently superior service at the same rates.

But if Ripley's interpretation of the law of increasing returns as applied to the railway industry is doubtful, so also is his explanation of the law as applying to long-haul traffic. A decreasing cost per ton-mile is usually accepted as marking very distinctly an increasing length of haul by railway transportation. Ripley puts it as follows:

> The terminal expense is obviously quite independent of the length of the haul. It costs no more to load for a carriage of 3000 miles than for one between two adjoining stations. . . . The constant terminal expense, spread evenly over the mileage traversed as the movement expenses grow, becomes progressively less and less in proportion to the total of the two, which constitutes the real rate. The longer the haul, the lower the ton-mile cost as a matter of necessity.

This is quite conservative doctrine, commonly agreed to without reserve by both economists and railway men. Yet can it be accepted without considerable limitations? Ripley may show that, with assumptions of fifty cents per ton for terminal costs and one-half cent per ton per mile for movement costs, a ten-mile haul works out at 5.5 cents per ton-mile, while a five-hundred-mile haul works out only at 0.6 cents, but he omits to point out that if the five-hundred-mile haul were cut in two, the average would be only 0.7 cents, or, if it were doubled, the average would still be 0.55 cents. The influence of terminal costs, applied even in his own way, would be a modest one upon haulage ranging from moderate to long distances. The reason why long hauls have shown such amazing economy over hauls of moderately long to long distance has been not so much the difference in distance, minimizing the pro-rated fraction of terminal costs, but the fact that these long hauls have been commonly associated with the movement of traffic in large quantities, heavy train loads. There is another objection to be raised against too free an acceptance of the current idea. Three-fourths or so of freight traffic on the railroads of this country consists of car-load consignments. The terminal handling expenses of this carload freight that fall upon the railroads are small, since it is customary for the consignors and consignees to load and unload at their

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own expense.[1] There is, of course, the handling of the cars from and to team and industrial tracks, and the assembly into and distribution from trains, but, in so far as the cars are consigned to distant points, they will have to pass through division terminals, say every two hundred miles or so (except where lightness of traffic throws division yards farther apart), and in the majority of cases there will be additional handling of the train, involving new "terminal" expenses. It may be that these divisional yard expenses en route are not so heavy as the initial or final "terminal" expenses, where the latter are incurred in large, traffic-congested centers, but to the extent to which they are incurred, roughly in proportion to distance, they minimize the depressing influence of the so-called "terminal" expenses upon long-haulage costs as compared with those of short-haulage.

Overemphasis of the relation of the law of increasing returns, as Dr. Ripley applies it to long-haul traffic, weakens part of his argument in connection with market competition. Such competition, he remarks, is facilitated by the fact that the carrier is "able to exercise a wide range of choice in fixing that margin of value created which it reserves for itself." At all times, primarily by reason of its subjection to the law of increasing returns, this intermediate share of the carrier tends to adjust or accommodate itself to the end that it may discover or produce a wider margin between values in the hands of producer and consumer. In other words, "the greater the distance between the producer and consumer, the greater the possible margin of place value remaining as its individual share." Literally construed, Mr. Ripley's language is not open to objection since he speaks of this as a possibility; and that it is possible for a supra-normal rate of profit to enure to specific long-distance traffic is not to be denied. But the average reader will be apt to gain the impression that, without regard to economical production, the railways seek to maximize their own profits by *unduly* stimulating traffic at a distance. As the above discussion indicates, there is by no means a prima-facie case for such a contention, at least so far as the great bulk of railroad traffic is concerned.

In the consideration of the railway-rate problem from the aspect of the costs of production a second question presents itself, namely, as already stated, whether the expenditures incurred to produce the various services are distinct and separable or, to a greater or less degree, joint and inseparable. Some twenty-four years have elapsed since Taussig

[1] The case of the less important less-than-carload traffic is different inasmuch as all loading and unloading expenses are borne by the railroad.

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published his memorable article dealing with this question. Like his colleague, Ripley accepts the traditional examples of wool and mutton, gas and coke etc., as representing typical instances of joint costs. He goes on to point out that the railroad is hardly an example of joint costs in the same sense, inasmuch as the increase of any one kind of transportation, say that of coal, does not produce necessarily an increase of any other, say cotton, but, nevertheless, he insists that

> the general law of joint costs holds good, in that it is a demand for each service rather than its costs which finally determines the chargeable rate. This must be so, because of the fact that the cost of each shipment is so largely joint and indeterminate and that a large part of the entire plant is indistinguishably devoted to the general production of transportation without reference to particular units of business.

Strictly analyzed, the argument does not appear convincing, even though the conclusion be not unacceptable. It might be urged that the joint and indeterminate costs are really no other than "common" costs, no more inseparable, theoretically, than the common costs of the production of two distinct articles that happen, for the sake of convenience, to be produced together in the same factory. Given free competition, the normal price of each of the commodities would be determined by normal cost of production, and the mere accident of producing them together cannot alter this relationship of price to cost. To quote Professor Edgeworth:

> If the same ground is equally suitable for peas and beans—joint effects in the way of rotation of crops being abstracted—then if the prime costs (in the sense explained) of (properly assigned) units of peas and beans are the same, the same will be the selling price for peas and beans of units (so assigned). The orthodox economist stating this familiar doctrine would not be put off by the affirmation that a great part of the cost was indeterminate, being joint for all the products in large part; that it is impossible to *allocate* the amount proper to each product.[1]

If the restriction of competition, made inevitable in the railway industry by the limitation of the factor "land," could be removed, prices of railway transportation would be found to tend always towards normal cost of production. Thus, the presence of monopolistic conditions, not of production at joint costs, causes actual railway rates to be adjusted to consumers' marginal utility rather than to producers' costs. This view of the nature of production in the case of the railway is borne

[1] *Economic Journal*, 1913, p. 221.

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out by the fact that "joint," as distinguished from "common," production exists only "when two or more things are produced by one and the same process, so that the expenses of producing them all together are not greater than the expenses of producing one of them alone would be."[1] Only to an insignificant extent can the production of transportation be said to exemplify such "jointness." Such is the objection that might be urged.

However, as the reviewer has pointed out in another place,[2] the definition of joint cost that has been handed down to us from the classical economists is itself, perhaps, open to criticism as substituting for the general case of joint production merely an important sub-case. It is rash to advise the oracles, but may it be suggested that an appropriate statement of the general law would allow joint cost to be operative whenever the total costs of production of two or more commodities produced together by a single plant are less than would be the sum of the costs of their separate production by separate plants. Granted such a definition, the attribution of discriminatory charges to conditions of "joint" production becomes, theoretically, more acceptable. However, actual rates may be other than those that would be established by joint cost under conditions of competition, for the super-imposition of monopoly upon joint production may bring about readjustment of total supply with possible reaction upon the price relations.

The acceptance of the above definition of joint costs would fail to meet the views of a critic such as Pigou. He would maintain that the service of railway transportation could not in any case be regarded as jointly produced, for "joint" costs imply two or more separate commodities—an article cannot be produced "jointly" with itself—and the service of transportation, the carriage of tons of different things between X and Y, is a single, homogeneous commodity. Such a contention must not be accepted too readily. To the extent that the carriage of tons of A, B and C, between X and Y, involves varying proportions of capital goods and labor per unit of transportation produced, differences in business risks and diverse degrees of managerial skill, the existence of economically distinct services of transportation would seem to be indicated. Certainly this applies as between the carriage of bananas and coal, though it may not do so as between coal and iron ore. In so far as this applies, the service of transport is not technically homogeneous. Professor Taussig would go further and urge that, where

[1] A. Marshall. Principles, 2nd ed. p. 437.

[2] *American Economic Review*, Vol. 4. No. 1. Supplement, p. 89.

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technical homogeneity is present, the commodity becomes economically differentiated if the demand schedules are different, and proceeds to urge that the heterogeneity of demand in the case of the railway service establishes that differentiation of commodities upon which the operation of the law of joint costs may be predicted.[1] But, under conditions of free competition, would the demand schedules for the transport of coal and of iron ore between X and Y be differentiated? Is it not, possibly, the discrimination of monopoly, not of joint supply, that produces the effect of a stratification of demand? In order to reason back to differentiation of commodity (or service) and to joint supply, it would be necessary to establish that actual price (rate) discriminations were not primarily the results of monopoly.[2]

The task of establishing economic heterogeneity where technical homogeneity exists is far from easy, and requires much more intensive analysis of railway rate practice than has yet been given to it by the economist. But there is reason to hope that a careful analysis would be fruitful of results. There are areas and periods at and during which the rivalry of railway carriers has surely minimized the influence of the monopolistic factor, and yet widely differentiated rates for different commodities have persisted. The reviewer believes it to be possible by a careful study of the details of such cases to give strength to the argument that monopoly, though at times affording the only explanation of specific rate discriminations, is by no means to be regarded as providing a satisfactory general explanation. Ripley had the misfortune to complete his first volume, and with it his discussion of joint costs, before the appearance of Pigou's *Wealth and Welfare* or of the correspondence in the Pigou-Taussig controversy, or of Edgeworth's review of Pigou. The critical value of Professor Ripley's discussion of joint costs is less than it would have been, no doubt, had this not been the case. Yet such of Edgeworth's articles entitled "Contributions to the Theory of Railway Rates" as appeared during 1911, together with certain earlier writings of his, might well have stimulated a closer inquiry into the relative significance of joint production and monopoly in the determination of railway rates.

[1] *Quarterly Journal of Economics*. Vol. 27, p. 381.

[2] The same necessity applies in connection with Professor Seligman's conclusion that the transport of silk and of cotton falls under joint cost because the technically homogeneous place utility that is produced attaches in various degrees to different articles and thus completes their production in an economic sense. (See letter of Seligman, *Quarterly Journal of Economics*, vol. 21, p. 156).

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It is quite practicable to discuss, under the head of "joint costs," the oyster case made famous in Hadley's *Railroad Transportation*, which Ripley uses as the foundation of his chapter on local discrimination. His analysis falls under two heads: (1) where the intermediate point X is on a circuitous route between Y and P; and (2) where it is on the direct route. The conclusion reached is that, since the danger of local rates at X being actually enhanced, or at least prevented from reduction, because of an unduly low level of competitive rates at more distant points, is much greater when X is a way station on the direct route than when it is an intermediate point on a roundabout route, therefore the direct line through X is, at the outset, put to a justification of its local tariffs as to whether they are inherently reasonable or not: first, by comparison with the general level throughout the surrounding country; and secondly, as yielding a return on the capital actually invested. It must be noted, however, that in his elaboration of the Hadley illustration, Ripley goes considerably beyond the original assumptions. Hadley abstains from the complications arising out of considerations as to the competition of the two routes at Y or as to their relative strength in the determination of the rate from Y. The vital issue in the case outlined by Hadley is simply that of the justification of the policy of the railroad in charging discriminatory rates upon different consignments of the same commodity at X, to be handled in identically the same fashion. This is the familiar problem as presented, for instance, in the case of the import and domestic rates.

Obviously, if the two identical consignments both originated from X, there would be no question of applying different rates to them for the same service. Does the fact that one of these commodities originates at another point than X, namely Y, mark it as economically a different commodity and thereby give some color of justification to the difference in treatment? Certainly, the value of the service is different to the owners of the two commodities. To X oystergrowers the service is worth a dollar per hundred pounds, because that price will enable them to compete at P, but to Y oystergrowers, sending their product to X for shipment by rail, it is worth not more than 75 cents per hundred pounds, because it costs them 25 cents to convey their oysters from Y to X. The demand schedules for what are technically identical services of transportation are dissimilar, and it is because of this fact that the discrimination in rates is justifiable. Since the distinct demand schedules constitute the articles economically distinct commodities of transport, and the transport service cannot be conducted economically except for both commodities together, the production must be regarded as one

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at joint cost.[1] The separate prices are determined by the relative demands. Of course the sum of the rates must cover the joint costs of production, and if the rate of return to the capital involved is beyond what can properly be regarded as normal, the question as to the general level of the rates is open to discussion.

Ripley's second sub-division of the oyster case is really not directly related to the Hadley case, but represents a distinctly separate set of conditions. X is now supposed to be a way station on a continuous line of railroad between Y and P, the supposition of alternative routes disappearing. However, the same reasoning applies. For simplicity of argument, assume that there is no traffic passing over the line save oysters from Y and X. In so far as this traffic may properly be regarded as joint, any rate necessary to secure consignments of oysters at Y is justified provided that separable expenses are covered by the rate, including a normal rate of return upon separable capital, and provided further that the rate charged at X plus the necessary rate from Y (necessary to secure the traffic) gives the rate of return upon the capital required to handle the combined business. The rate at X may possibly be equal to or higher than the rate at Y, but if a lower rate at X than at Y would so increase the traffic at X as to maximize the profits of the business, then neither economic theory nor business policy would justify the assumed rates at X, even though loss of business at Y might result.

In further discussion, Dr. Ripley says that when the factor of commercial competition is introduced Hadley's analysis of the oyster case is quite inadequate and he goes on to ask whether it would make any difference if the controversy concerned rates in the opposite direction, from P to X and Y—in other words, from a common center of distribution or manufacture to competitive consuming or jobbing points. So far as the mere reversal of route is concerned, Hadley's analysis works as well in the one direction as in the other. The alternative route fixing the rate to Y at one dollar, the possibility of X securing the half-carload of the commodity, all that it can consume, depends upon the concurrent loading of a half-carload for Y in the same car at 75 cents, the cost of transportation from the railway terminal at X to Y being 25 cents. Of course, if by lowering the price to 75 cents, the demand at X would be so increased as to enable the whole expenses of its traffic

[1] Note, however, that, considerations as to train-load haulage etc. being left out of account, three-quarters of a carload from Y could not be regarded as a joint product with the half-carload from X, since its carriage would necessitate another car.

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to be met, including the customary rate of return upon the invested capital, sound economic policy would demand this course to be pursued; and it is pursued, even by strict monopolies. With the Hadley conditions in mind, our author unduly disturbs himself about the economic effects upon X and Y. However, there is a more complicated case in which these effects are more insistent for recognition. In this case the traffic to or from P moves from or to X and Y along separate routes, there being no question of movement of traffic between Y and P, via X. Ripley tells us that methods of rate adjustment in such a case must differ according to the length of line, the direction and composition of the traffic, and other factors. The other factors, he might have added, may be very important. All economic conditions being the same, and joint cost not entering into consideration, the conditions favor the application of distance rates. But differences in intensity of demand, in consuming capacity and productive ability, the intrusion of competition, very frequently bring modifications which make such rates inapplicable without restriction of general material progress. Under these circumstances a demand rather than a cost adjustment of rates is required by economic welfare. But this does not mean that the interpretation of demand is a matter of arbitrary whim on the part of the railroad. In so far as the state, combining in itself both consumers and producers, can assist in this interpretation, its supervision is economically justified.

A study of the influence of competition upon railway rates necessarily calls for a broad survey of the nature of the competition. As Dr. Ripley points out, three kinds of competition among railways may be distinguished, namely, competition of routes, competition in facilities and competition of markets. Where competition in routes exists, consolidation (or pooling where such is permitted) is very likely to occur, as in the case of the West Shore and Nickel Plate railroads absorbed by the Vanderbilt lines. Mr. Ripley quotes with approval Weyl's statement that "strictly speaking, permanent competition can exist, not between railroads struggling for the same traffic, but solely between those railroads which have no territory in common." Weyl's statement, however, is one of those generalizations that need careful interpretation. To quite an appreciable extent, the Northwestern, the Milwaukee, and the Burlington are struggling for the same traffic, and yet one would hesitate to say that competition is not exceedingly active between them. It might be urged that in this case the struggle is based on competition of facilities and not on rates, since rate-making by freight associations is characteristic of this territory, as elsewhere. But even in ordinary

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industrial competition, long periods of steady wholesale prices are by no means infrequent. Such a condition does not necessarily indicate absence of competition. It is the potential price differentiation that is determinant. In the case of the railways named, this potential rate differentiation exists at all times, and its influence is profoundly felt in the meetings of the rate associations and committees from time to time. Especially must it be noted that, where lines competing for the same business become part and parcel of larger systems, conditions of competition may be continued indefinitely.

The most valuable contribution of Ripley to the subject of railway competition is his discussion of market competition. The significance of market or regional competition in the construction of railway tariffs has been receiving far from the study that it deserves. Much further investigation will be required before our understanding of the relationship can be said to be complete. But Mr. Ripley's able discussion ought to help a great deal. Market competition, it is pointed out, is in many cases more than a euphemism for railway policy; although indirect and often obscure, it is of fundamental and conclusive importance in the determination of freight rates. The general effect of rates made under this stimulus has been, not to create differences of opportunity between individuals, but to generalize economic conditions and equalize prices throughout wide areas. Where this competition is of the primary or direct variety, in effect where the commodity undergoes no physical transformation between producer and consumer, the question is simply whether, as regards a certain traffic, this or that supply area, or both, shall feed the demand of a particular consuming area. Shall Maine or Michigan potatoes, or both, supply the New York market? However, the competition may be secondary or indirect where the commodity in question undergoes some change of form, and where the question of competition against rival supplies in the consuming area becomes one of the adjustment of the "interlocked" rates. Such adjustment may determine even the specific geographical location of an industry with reference to the raw material on the one side and the market on the other.

Particularly in the jobbing business are the highly complex details of commercial competition to be seen. The existence of cities as commercial centers may depend upon the adjustment of car-load rates into them and less-than-carload rates out of them. Market competition has led to a wide acceptance in American railway transportation of the principle of the flat rate, by which competitors for a certain market are placed upon an equality, so far as the transportation charges are con-

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cerned. This is very undesirable where it penalizes or nullifies advantages of location.[1] Conditions may occur, in fact commonly do occur, in connection with market competition that prevent any individual line from determining the rate; its rate is determined for it. In fact, it may be said that an important feature in commercial competition is its entire dissociation from all considerations of cost of service by long or short routes. Such a statement, by the way, while not exactly erroneous, certainly has the defect of incompleteness. It is true that the price of sugar at Kansas City, to take Ripley's concrete example, is made by competition of sugar from several parts of the world, and that no particular line makes the rail rate. Yet, undoubtedly, the cost of rail transportation enters into the price of sugar at Kansas City, and, whatever they may do in sporadic moments of excitement, railways will not continue to carry sugar to Kansas City unless the traffic bears at least the expenses that can be specifically imputed to it. If an indefinite quantity of sugar could be conveyed over any one of the routes, and that route could convey it more cheaply than other routes, there would tend to result a concentration of the traffic on that line. Under competitive conditions such a line could stand rates that would mean actual loss to the other lines. The latter might fight for a compromise, but that the compromise would be a rate favoring in some degree the strong line can hardly be doubted.

In price making where the conditions of supply are not those of competitive joint production, but of monopoly, the inferior and superior price limits are set by cost of production on the one hand and maximum net return on the other. The law of increasing returns, if operative, tends to restrict the superior price by reason of the reaction of the former, through demand, on the maximum net return. Competitive joint-cost production is itself appreciably more confined in its power of fixing the combined prices of its commodities; yet, within the limits enforced by this restriction, it may be said to exhibit more flexibility of price adjustment than does monopoly. Both joint costs and monopoly have a certain similarity, in that price-making under either system is very strongly influenced by marginal demand. The wider the area over which "jointness" holds good—in other words, the greater the number of commodities that are produced jointly—the more difficult it is to determine whether discriminatory prices arise out of joint production or monopoly. The phenomenon is modified some-

[1] This is not discussed by the reviewer in this place, as brief attention is given to the question of the distance factor on a later page.

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what when separable expenses have to be taken into account, but it is not essentially changed. The problem of price-making in railway transportation is made especially complicated by the fact that varying degrees of monopoly, competition, joint cost, are apt to occur. Consideration of the working of competition, both junctional and regional, forces one to the conclusion that the theory of pure monopoly, as also the theory of perfect competition, is inapplicable to railway rates as a whole, that what is needed for better comprehension of their adjustment is a thorough investigation of the theory of limited monopoly and its bearing on maximum economic welfare. One will find in such a study, probably, a certain reconciliation of the views of such writers as Taussig, Pigou and Edgeworth, for at times it will be found necessary no doubt to appeal to the theory of joint costs for an adequate interpretation of particular rate discriminations, just as at other times the assistance of the theory of monopoly must be sought. Take the case of traffic to so-called non-competitive points. It is common to speak of this as though it were purely monopolistic. Yet, under the actual conditions of rate-making, it is very likely that competitive influences frequently affect such traffic indirectly. In so far as the long and short haul principle is observed (and this is true of most of the traffic of the country) the cutting of the rate at competitive points lowers the maximum that can be applied to non-competitive points on the same route, and, not uncommonly, causes more or less distribution of the reduction over some, at least, of the antecedent non-competitive points. Where the long and short haul principle is not observed, this does not hold true, but even here it is possible that at times the establishment of the rate to the local point upon the basing-point rate, forced to a low level by the influence of strong competition, may actually provide the former with a rate below that which it would have secured if the economical centralization of traffic stimulated by the basing-point rate had not been in effect. This is still more likely where the rate to the local point is made up by the addition of an arbitrary, lower than the normal, local rate, to the through basing rate.

Moreover, most railroads, eager though they be for large through traffic, cannot afford to neglect the possibilities of local traffic. There are numerous small industries, occasionally something more than small, situated at local points, but competing in the markets with the products of similar industries on lines serving other localities. Under these conditions, pressure is likely to be brought to bear by such manufacturing concerns to secure rates for their shipments which place them in a favorable position as compared with their rivals. The fact that, under

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such conditions, the competitive factor is somewhat slow and obscure in its operation must not prevent us from recognizing its existence.

There is great need for close observation of the phenomena of local rates in order that the true measure of the respective parts played in their construction by monopoly and competition may be taken. The most serious attempt so far to make any detailed examination is that of Professor J. M. Clark, whose interesting study of local discrimination has much merit, though leaving many points at issue. In reading through Ripley's treatment of rates, one cannot avoid a feeling of disappointment that so important a field, doubly so in that it has been neglected, should not have received more generous cultivation at his hands.

But if the theoretical problems of local discrimination (in the broad sense) still remain to be solved, Ripley's explanation of the facts of discrimination is both interesting and enlightening. Reference having already been made to certain points in his discussion of local discrimination, the present discussion may now be restricted to the question of personal discrimination.

Local discrimination may at times be personal discrimination in disguise, and therefore clearly unreasonable. This is shown very effectively in a Standard Oil case that Ripley draws from the well-known petroleum report of the Bureau of Corporations. In this instance, specially low rates were made from Dalton, Illinois, near Whiting, Indiana, to Grand Junction, Tennessee, to favor the Standard Oil Company in its competition with independent producers for the trade of the Southeast. The issue of the regular oil tariffs from Whiting was obviously nothing but a blind to cover the special tariff from Dalton, legally but unobtrusively filed. Personal discrimination, as Ripley shows, easily becomes hydra-headed. Excessive allowances on private cars, extravagant pro-rating agreements with industrial lines, sophisticated commodity tariffs, midnight tariffs etc.—such was the outcrop of a low morality permeating the circles of both shippers and carriers. With the attainment of greater economic equilibrium and improvement in the standard of business morals, amelioration of these abuses would have ensued, unquestionably; but we can agree with Ripley that the coöperation of the law has been of stimulating effect. In spite of some conspicuous reversions to old methods, there has been marked improvement. As to how important a factor of further advance, endorsement of pooling agreements would be, is far from certain. Common action by the railways, without such arrangements, has developed so far that any additional benefit to be gained from pooling in this regard might

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easily prove to be less substantial than our author apparently expects. He fails to tell us to what extent personal discrimination was rampant during the decade of active pooling prior to the passage of the Act to Regulate Commerce. There is evidence to show that there was a considerable amount of it. In a country of rapid industrial growth, pooling agreements necessarily undergo frequent revision, and the temptation to swell traffic and pooling percentages by improper inducements to shippers is apt to make itself felt.

The details of Ripley's admirable description of the methods of personal discrimination call for but minor criticisms. In connection with private car lines he is concerned mainly, of course, with their record as rebating media, but this very limitation is apt to leave with the uninformed reader a rather inadequate idea of their purpose. It would have been well to point out clearly that their development was a very natural one, arising out of the attitude of the railways, and that it was of much advantage to the latter. The economy to each individual road of not having to provide large quantities of cars available only for special traffic, or at particular seasons of the year, is an economic justification of the system. That mileage adjustments need to be made very carefully on privately-owned equipment and that care must be taken not to allow such payments to become subterfuges for rebates needs no debate. In the past such rebates have been altogether too prominent. Yet, curiously enough, the figures for 1903 quoted by Mr. Ripley do not reveal any extravagant profit upon private cars as a whole. A mileage payment of $12,000,000 upon approximately 130,000 private freight cars indicates roughly a ten-per-cent return. When depreciation and repairs are allowed for, the return upon the capital invested must have been less than five per cent. In the recent inquiry into the private car system, the packers, Morris and Company, asserted that the return upon the capital investment in refrigerator cars amounted to 4.71 per cent for 1912. There have been special cases, no doubt, in which the rate of return has been considerably higher, though the examples depended upon by Ripley to establish this are not altogether free from the suspicion of exaggeration, despite the distinguished authority from which they are drawn. It is hard to believe that, for so long a period as two years, in spite of loading and unloading delays, repairs etc., an average of one hundred and fifty miles per car per day, for every day of the period, could have been obtained by any private car line. That the extraordinary sum of $200,000 should have been secured during the specified two years by the 250 cars in question would induce one to suspect corrupt practices for which the mileage-allowance accounts served simply as a cover.

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Mr. Ripley's discussion of the Peavey Elevator case, well known to students of the decisions of the Interstate Commerce Commission, also needs brief attention. The Commission, after upholding the legitimacy of the elevation allowance for the transfer of grain from Union Pacific cars at Omaha, subsequently changed its mind, on the ground of changed conditions, and declared them unlawful. This action both the circuit court (176 Fed. 409) and the Supreme Court (222 U. S. 42) declined to ratify. The opinion of the circuit court enters very carefully into the merits of the argument of the Commission. Probably Mr. Ripley read this opinion, but, no doubt over-influenced by the comment of the Commission upon the court decisions, does not give it all the weight that it deserves. There was a powerful reason why the Union Pacific Railroad should foster, so far as it could, the transfer of grain at Omaha, for, to the extent to which this could be done, it was a distinct operating economy, reducing the number of cars that passed from its own lines and increasing its carrying capacity during the active period of grain movement. The railroad could perform this service through elevators of its own: the mere fact that it preferred to make use of private elevators could not, of itself, create undue discrimination, if the elevator allowance were no more than a reasonable payment for the actual service performed, and, especially, if the allowance were receivable by all elevators able to perform the service with satisfactory efficiency (see 222 U. S. 215—Updike grain case). It is easy to see why elevator allowances did not appeal to those St. Louis roads with lines both east and west of that city, since their mileage enabled them to maintain more effective control over the movement of their cars than was possible to a line like the Union Pacific, terminating at the Missouri river, if its cars passed from its own lines to some independent connection. Only by such a device as that adopted by the Union Pacific could the line without the through connection relieve itself of the operating disadvantage. The fact that through lines crossing the Missouri river at Omaha and other points put in corresponding elevator allowances, did not destroy the justification of the practice so far as the Union Pacific was concerned. In passing it may be noticed that, after mentioning the action of the Commission denying the reasonableness of these allowances, Ripley still finds it possible to say that the decision of the Supreme Court upheld the Commission in holding that the payment of an elevator allowance was not unlawful.

The record of American railway rate-making has been marred by unjustifiable rate manipulation arising partly out of low commercial morality, partly out of inadequate experience of railway traffic managers,

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and lack of breadth of view. In spite of this, much success has been attained in interpreting the significance of economic conditions, as a result of which extremely valuable assistance has been rendered towards the rapid and effective utilization of the material wealth of the country. If the reviewer reads Professor Ripley's pages rightly, such is his attitude. However, he feels that, in some respects, competitive conditions have been allowed to exert too powerful an influence upon rate-making. Instability of rates has been fostered with certain resultant evils, which, with him, we shall now discuss.

First of all, he draws attention to the large number of railway tariffs, and urges that the best proof that they have been unduly numerous is the great reduction in volume that has taken place, since 1906, under compulsion of law. There can be no question but that, in years gone by, there has been excessive complication in the publication of tariffs and that the coöperation of a body like the Interstate Commerce Commission has facilitated their simplification. However, Mr. Ripley's data does not, as he apparently supposes, prove a remarkable reduction in the quantity of commodity rates. The figures that he quotes are simply those of separate tariffs issued. But important practices have been developing that, in themselves, tend to reduce the number of separate tariff issues, yet do not necessarily reduce the number of rates. These are the broadening of tariffs so as to cover more commodities, or wider territories, the increase in agency tariffs, thereby avoiding separate publication by individual railroads, and the use of elaborate "exceptions to classifications" which obviate the use of a considerable number of commodity tariffs by the railroads, as well as render unnecessary separate publication of such tariffs by individual roads. Mr. Ripley's statistics may be used well enough to indicate greater simplicity in the publication of tariffs, and this is a very real gain; but they are of little value as bearing upon the question of reduction in the number of rates, the only issue to be considered when discussing the matter of elasticity of rates.

In the second place, Mr. Ripley urges that elasticity in freight rates may at times be used so as to promote rather than to lessen the state of economic unrest inevitable in business. The undesirability of this is beyond contradiction, but the reviewer does not understand that, to prevent such excesses, Professor Ripley would have set up some rigid form of rate adjustment. The weakness of governmental rate-regulating bodies is that they are very apt to seek a standard yard-stick which will have the magical property of settling all their difficulties in the measurement of reasonableness. Under the

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color of stability of rates, they may deprive a most powerful agent of economic advance of all initiative and vitality. It is to the credit of the Interstate Commerce Commission that it has endeavored with some success to keep itself free from this weakness, though there is some reason to wonder whether this policy is likely to be continued for long.

Thirdly, flexible rate-making has enabled rates to be made with the purpose of merely wresting business from other carriers or markets. "These are the expressions of railway ambition to build up trade by invading territory naturally tributary to other railways or traders." Superfluous transportation—economic waste—has resulted. Several examples of such economic waste are quoted, based on the supposition that whenever a community producing a surplus of a given commodity supplies itself, nevertheless, with that same commodity from another market, economic loss results. Here, as in certain other places, Mr. Ripley's estimate of the social advantage of competition seems surprisingly low, and out of harmony with his own general position. Probably in the majority of instances cross competition has a very beneficial effect upon the prices to consumers and upon the level of efficiency of producers. There is a very real gain, which must be set off against the apparent economic loss produced by the cross movement of freight. Moreover, the economic organization that sometimes causes the movement of the products of a district to some external market, only to be redistributed again through the same district, is not to be lightly dismissed as the sponsor of inefficiency. The advantages to be gained at times from the centralization of the distribution of goods are undeniable.

Fourthly, the unduly elastic rate system may entail increased burdens upon the local constituency of each railway. America has fifty per cent more special rates than England. The figure is a guess, but, letting it go, the fifty-per-cent increase may not be out of proportion to the greater dynamic vigor of a new country such as America. To continue our author's argument: "Momentous social consequences may result. Not only the cost of doing business, but the expense of living in the smaller places is increased. One of the most dangerous social tendencies at the present time is the enormous concentration of population and wealth in great cities." The author does not directly charge the American rate system with having, by its undue elasticity, brought about these momentous consequences; but his hint as to the excessive percentage of American special tariffs compared with those of England makes the inference inevitable. Should he not have given us therefore some estimate of the effect upon cost of living in the

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smaller places that could possibly be produced by the removal of undue elasticity from the railway rate system? His reference to the dangerous tendencies of centralization is open to a similar question. Perhaps enthusiastic appreciation of the achievements of railway transportation has induced an over-generous estimate of the extent of its social influence.

Fifthly, an abnormal disregard of distance, which is always possible in the making of special rates to meet particular cases, may bring about a certain inelasticity of industrial conditions by hindering the rise of new industries or by postponing or averting the well-merited relative decline of old ones. But a greater insistence upon the rights of geographical location might with equal effectiveness bring about this economic retardation. The argument cuts both ways.

The last item of the preceding catalogue of evils, abnormal disregard of distance, is the occasion for the inclusion of a separate discussion of the causes of economic waste in transportation, six of which are named as prominent by the author: (1) congestion of the direct route, (2) rate-cutting by weak circuitous line, (3) pro-rating practices in division of joint through rates, (4) desire for back loading of empty cars, (5) strategic considerations concerning interchange of traffic with connections, and (6) attempts to secure or hold shippers in contested markets. Some of these are of mere academic interest. As regards (1), it may be more economical from the point of view of society, for the time at least, that freight should be carried by a circuitous route in which capital has been already invested than that new capital should be laid down, in the expansion of the congested route, considerably in advance of its full utilization. Nor is rate-cutting by circuitous lines (2) to be regarded too seriously. The competition of circuitous lines has produced some obvious excesses, at times fostered by unhealthy pro-rating practices (3), but, on the whole, there is good reason to regard the restriction it imposes upon monopolistic price-making by the direct route or associated direct routes as beneficent, and, as has been pointed out previously, there is always the possibility that the reaction upon the railways will conduce to greater technical efficiency. The attitude sometimes assumed by railway traffic men, and apparently approved by Ripley, that traffic between any two points "belongs" to the direct route or routes, is a dangerous one. Economic waste cannot be determined solely by the money costs of working traffic over the different routes. Where the circuitous route coincides with favorable conditions of back-loading the competition with the direct route may become very keen indeed, but a circuitous route favored by such traffic

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conditions has some ground for insisting that it is, under these circumstances, one of the prime factors in the establishment of the rates in question. In such cases it very frequently happens that favorable back-loading conditions are present on both the direct and circuitous routes, a fact that eases, for the direct route, the severity of the competition.

If the foregoing criticisms are well-founded, then circuitous routing is hardly as serious as Ripley's indictment would lead us to believe. Five resulting evils are named by him: (1) inordinate swelling of the volume of ton mileage, (2) dilution of ton-mile revenue, (3) rigidity of industrial conditions, (4) fostering of centralization both of population and industry, and (5) the imposition of a tax upon American production. The last three are the only ones that call for consideration, and (3) has already been considered in another connection. If real economic waste occurs, all factors in the case, and not merely the question of direct versus circuitous routing, being taken into account, we need not hesitate to agree that such a tax upon the productivity of the country should be avoided, in so far as it is capable of being foreseen. The fourth item Mr. Ripley does not discuss, though one or two scattering references to it occur in the volume. The reviewer must follow his example somewhat, for the problem is too large a one to be dealt with adequately in this article. What follows is simply intended to emphasize the difference of opinion that prevails on the matter. It is interesting to note that, discussing the third item, Ripley gives the following illustration, which seems to show some hesitation as to the validity of the fourth count of his indictment. "If Pittsburgh is the natural center for iron and steel production, it may not be an unmixed advantage to the country at large, however great its value to New England, to have the carriers perpetuate the barbed wire manufacture at Worcester." Professor M. H. Robinson, in his able attack upon the economic disadvantages of the present system of rate-making, urged as one objection that the system checked the normal tendency towards concentration of production in those localities most highly favored by nature, and thereby increased cost of production. When doctors do not agree with one another, or even with themselves, what is the uninstructed layman to think? A certain tendency towards centralization is commonly regarded as economically and socially beneficial, in spite of the evils that may result from the aggregation of human beings in urban centers. To take the liberty of repeating a statement made by the reviewer in a previous article:

> A rate system, constructed and applied in such a way as to reduce all industries wherever situated to a dead level of profits, would militate against

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localization and would tend to maintain a higher cost of production. But such rate-making is a far-fetched hypothesis, justified neither by the history of the past nor by a reasonable anticipation of the future. The existing rate system shows no tendency to alter the natural lines of industrial progress. Under its influence, the farming of New England has been transferred to the more fertile fields of the Middle West, and, in its place, there has been built up those manufacturing enterprises for which it was marked out long before the railways appeared. The lumber industry of the Northwest has been developed concurrently with that of the Southeast. Centers of trade such as St. Louis, Cincinnati, Cleveland, Chicago, Omaha, and many other cities, highly favored by nature, except in the matter of proximity to the Atlantic Coast, and ear-marked for industrial advance before the railways reached them, have not failed to make the most substantial kind of growth. It is true that localization has not been developed to the last degree of physical concentration, and that the present rate system permits a certain diffusion, but it is a gratuitous assumption to argue that this means a higher level of cost. The economic theory of production does not justify the supposition that the cost of production curve continually falls as localization develops. There seems good reason to believe that, after a certain degree of localization is attained, the cost curve is not appreciably affected. Under the railway régime of this country, localization has developed in localities with particular advantages of production or distribution, very often rather the latter than the former: as the tide of population has flowed westwards, other localities, often enough with still greater advantages of production, have been relieved of their relative disadvantages of distribution, with the result that they, in turn, have become points of localization. Thus much of what appears to be diffusion is really experimental localization in a country still in the stage of regional development. In a vast territory such as the United States, it is evident that, for many industries, there are several localities offering, for their own areas, at least, special advantages for the indissolubly related processes of production and distribution. Indeed, apart from the consideration of stationary cost after the attainment of a certain intensiveness of localization, the desirability of some diffusion of industry must surely be admitted. Complete concentration of any industry would mean, in general, an increased average distance of transportation for the products of that industry and, quite possibly, for some of the raw materials and fuel. The advantage to the consuming community of the lower cost of production at the point of concentration, if such existed, might easily be neutralized, in whole or in part, by the higher freight charges arising from the greater average distance of carriage. Furthermore, the more complete the concentration, the stronger would be the tendency towards combination and monopoly, again with possible inimical effects upon the consuming interests.[1]

[1] Rate-making and Rate-reforming, *Railway World*, March 11, 18, 25, April 1, 1910, p. 198.

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All the foregoing considerations point pretty clearly to the nature of the underlying general principles of rate adjustment. In the words of our author, both cost of service and value of service must be continually invoked as a check upon each other. "Neither will stand the test of reasonableness alone. Whether the one or the other should take precedence can only be determined by a careful study of the circumstances and conditions in each case." If for each class of service, economically distinguishable as such, the actual total cost assignable to each unit of service under conditions of free competition, including earnings of management and return to capital, could be made the measure of each rate, then rates so adjusted would probably be the most desirable from the point of view of maximum economic welfare. This much may readily be granted to the theory of cost-of-service rate-making. But, as Edgeworth has pointed out, with so complex a system as that of railway transportation, how can we ascertain in the absence of free competition what would be the charges fixed by it? Theory must bow to practice, and hence in attempting to use cost as a criterion of rate reasonableness we must be satisfied with the less significant cost of movement, interpreted, perhaps, as mere out-of-pocket expenses, and consequently applied with a very large allowance for error. Below this level rates should not go, because traffic so secured would cause an actual reduction of the surplus available for the overhead and more constant charges. Where conditions of competition are very keen, rates tend to be driven down to or near to the level of their prime costs, with consequent reduction of their contributions to supplementary costs. While such rates are easily defended from the standpoint of the particular interests of the individual road, they are not to be justified so readily from that of general economic interest, unless they are indispensable to the development of new business. In the consideration of rates upon established business, the point of emphasis should be, as Lorenz suggests, those expenses which would not now be incurred if the traffic had not been called forth, and, so far as these can be identified, they should be regarded as fixing the lower limit of rate adjustment.

While the lower limit of charges can be indicated, not by any means with precision, but still with some pretence to definiteness, the same cannot be said of the upper limit. Ripley takes considerable pains to show how the relative insignificance of the transportation charges, as compared with the value of many goods, makes it impossible to look in these cases to the principle of charging what the traffic will bear for protection of the consumer from exorbitant rates; such cases must be settled with "some reference, indefinite though it be, to the extra cost

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incident to the particular service." If the question had been one of minimum rates, the economic propriety of such a solution might have been conceded. Within considered limits the comparison of relative extra costs might be allowed to be of service in helping to fix rate relations. But what the logic of its employment in the determination of maximum rates can be, is difficult to understand. The question is complex to a degree. Are we to suppose that the railways have deliberately neglected an obvious and easy opportunity of securing an appreciable increase of revenue? The unlikelihood of such a supposition induces one to believe that some powerful force has compelled the maintenance of rates on high-valued goods at a comparatively low level. Without doubt a partial explanation at least is to be found in the territorial extensiveness of the market for the higher-valued products, permitting competition, particularly market competition, of special intensiveness. So long as this continues (and it is likely to do so) there will be effective a powerful check upon any large and general increase of a permanent nature in the scale of transportation charges applying to these commodities. But, supposing that the rates on such goods could be considerably enhanced without effect on the present or future demand for them, does it follow that rates raised to the maximum level would be exorbitant or extortionate? Is there any logically acceptable criterion of the reliability of maximum rate schedules other than that of the effect upon demand (including future demand, so far as it can be measured in advance)? Perhaps such a criterion may permit distinctly monopolistic profits with consequent justification of a readjustment of the general level of rates; but this is another matter.

Though Professor Ripley may be inclined to estimate rather highly the value of cost of service as a check, his general argument would by no means meet with the approval of strict cost-of-service theorists. From their point of view it is open to serious criticism. For instance, as one of the reasons for attributing theoretical unsoundness to cost of service as a sole rate basis, Mr. Ripley makes the assertion that its application would hinder all transportation of low-grade traffic, and would prevent any development of long-distance business. Cost-of-service advocates would reply that this would be a distinguishing merit, for one of the evils of the present system with its low rates for low-priced goods and high rates for high-priced goods, is exactly that it encourages the country "to use more of the goods which it needs less because its wants are more fully satisfied, and less of those which are in greater demand."[1] Further, Mr. Ripley passes unnoticed the argument that

[1] See article on "Freight Rates," M. H. Robinson; *Yale Review*, 1909.

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this system of charges would tend to leave in the hands of each producer the economic rent to which his location or ability entitles him, whereas the current system tends to allow the railways, as they secure monopolistic unity among themselves, to sequestrate such rent. Moreover, Ripley's argument in favor of regarding cost as indeterminate would be open to objection in several particulars. As previously noted, more proof of the importance of the factor of joint production would be demanded. A large mass of the supplementary expenses, it would be urged, can with economic justice be allocated in proportion to marginal costs, and the size of the indeterminable factor would be too restricted to cause any significant error. Variability of cost and fluctuation of volume would not be admitted as prohibitory of adjustment of rates to costs—in any case, it would be contended, it is not the variant cost of individual units of traffic that has to be determined, for price under permanently competitive conditions is not affected by the incidental fluctuations of unit price, but simply by the average cost of recently produced units.

Whatever may be lacking in this particular part of Ripley's discussion, one excellent merit stands out. Appreciative as he is of the difficulties arising in connection with a flexible rate system, optimistic, perhaps, as to the extensibility of application of the cost-of-service idea, he never allows himself to lose sight of the fundamental importance of value-of-service considerations under the progressive conditions of American commerce and industry.

As the basic purpose of this article is the discussion of the more theoretical aspects of the rate problem, the writer will content himself with but brief reference to Ripley's substantial description of the rate structure built up by American railways. As a succinct description of its characteristic features, the study is unsurpassed. There are some errors of statement, but they are not serious enough to detract from the high excellence of the general treatment. The problems of freight classification are brought out very clearly, and the practicability of uniform classification is discussed with entire fairness. Perhaps a little more emphasis might have been placed upon the efforts of the railroads themselves in the direction of greater uniformity of classification. Before the establishment of the Interstate Commerce Commission, much thought had been given by them to the problem and, indeed, much was accomplished. If the Act to Regulate Commerce had never been passed, the movement would still have continued, though that piece of legislation was undoubtedly a stimulus.

"Rule-of-thumb is mainly represented," says Mr. Ripley, "in clas-

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sifications of the present time; that is to say, an adjustment of freight rates upon different commodities to suit the commercial conditions which have happened to prevail at any given time: all of which emphasizes still further the need of scientific revision of these most important schedules." It is not clear what is meant by scientific revision in this connection. During the last half-dozen years or so, a great deal has been done in the way of overhauling the classifications. Inconsistencies and improprieties have been found, but no one familiar with actual classification practice can resist the conclusion that the classifications have been pretty well adjusted to their economic environments, and that the efficiency of this adjustment has been promoted by the fact that the classifications have been the growth of rule-of-thumb experience. They were haphazard in their origin and, in rough and ready fashion, they have been shaped to fit business conditions. Economic expediency has been the guiding principle, but it has brought about what is, on the whole, a working compromise between the various interests involved. To quote the Interstate Commerce Commission in the Forest City Freight Bureau case: "Classification is not an exact science, nor may the rating accorded a particular article be determined alone by the yardstick, the scales, and the dollar."

In the actual construction of rates, systems of percentages, basing points or differentials may be employed. The first-named plan has been worked out so successfully in the case of the through traffic of the territory north of the Ohio and Potomac rivers and east of the Mississippi that it has attracted general and well-merited attention. Several years ago, Mr. Ripley worked up the leading details of the Trunk Line Percentage System into an interesting article which has now been made more accessible by inclusion in his treatise. He makes the Trunk Line System serve as an object lesson of the practicability of a more extensive distance tariff, but he lays hardly sufficient emphasis on the peculiarly favoring conditions of this territory. The competition of the Great Lakes, the disturbing influences of the western railways in the grain traffic, and also of the numerous transverse north and south lines, the rough parallelism of the dominating lines, a fairly regular distribution of markets from west to east, the general diffusion of traffic among the smaller towns, all of these combined together to make the application of a simple rate scheme successful to a degree that was unattainable in other parts of the country. Mr. Ripley himself draws attention to the considerable irregularities that prevail under the scheme; if he had inquired further, he would have found that when an attempt was made in the revision of the scheme, subsequent to the enactment

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of the interstate commerce law of 1887, to lay greater emphasis upon the distance factor, serious economic disturbance and loss resulted, so that a further revision had to be begun, in 1892, to take more carefully into account industrial and commercial conditions. This resulted, according to McPherson, in an adjustment under which "the rates as a whole bear only an indirect relation to distance." There are frequent instances of the use of arbitrary rates, of special percentage groupings etc.

Turning to the basing-point system of the South, Mr. Ripley finds it a medieval scheme of rate-making. But the Interstate Commerce Commission, in spite of its dislike for this system of making rates, found itself unable in its decision of April 13, 1914, to change its fundamental features. To a large extent—and in saying this we do not dispute the fact that, at times, an extravagant use of the basing-point principle has been made—the system has naturally developed out of the economic conditions in the South and in course of time has become inextricably interwoven with the economic structure. The feeling of the railroads is well indicated in the brief of one of the petitioning companies before the Commission, in which it was stated:

> To have a vast system of rates, such as the Southern rate fabric, suddenly and utterly all altered; to have the system of rates in use and operation from the Mississippi to the Coast and the Ohio to the Gulf, a system which has resulted from fifty years of strife and competition and compromise among the Southern railroad companies, the result of the best thought and labor of many of the greatest railroad men the country has produced, a system which has given and is giving general satisfaction, that is eminently practical, and entirely lawful—to have all this shattered at one blow into wreck and dissolution, is no small matter. To revolutionize the long established business conditions of the South, and the channels of trade of the South, is an equally important thing. And to force such radical reductions in the rates and revenues upon the Southern railroad companies as will probably bankrupt some of them, and inevitably and materially injure all of them, is still of greater magnitude. Yet all of these will undoubtedly result from a literal enforcement of a long and short haul rule of the fourth section of the Act to Regulate Commerce.

Unfortunately, Professor Ripley's volume was published a couple of years before this discussion, or he might have been a little more charitable towards the Southern rate system.

Finally, as regards the movement of freight rates since 1870, Ripley points to the great fall in the ton-mile revenue curve between that date and the close of the last century, and the apparent cessation of the

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downward movement since about 1897. But it must be borne in mind that this curve is not altogether an accurate register of rate movement, for, as Ripley observes, revenue per ton-mile is affected fundamentally by three distinct sets of conditions, varying according to the nature of the traffic (high or low grade), length of haul and proportion of through business and volume of traffic handled. Mr. Ripley's logic is not quite clear here. The first two conditions may affect, in a very direct way, the interpretation of the ton-mile curve, but does the third do this? Of course volume of traffic favors reduction of rates, but, "entirely irrespective of any change in the level of the rates," how can it "profoundly" modify revenue per ton-mile.

From about 1900 there has been, Ripley states, a substantial rise of charges, mainly, in 1900 by changes in the class ratings; in 1903 by advances in certain commodity rates, affecting iron articles, packing-house products and dressed meats, bituminous coal and coke; in 1907–8 by advances on grain and grain products, coffee, sugar, also further increases in the coal and coke rates. These advances, covering a large amount of tonnage, seem to have been forced by large increases in operating expenses, a point of interest which is not discussed in the text. The increase of class ratings in 1900 was, perhaps, counterbalanced by subsequent reductions. Reference should have been made in this connection to the evidence supplied in Mr. C. C. McCain's pamphlet on "The Diminished Purchasing Power of Railway Earnings," published in 1909, in which it is pointed out that between 1898 and 1908, a period roughly coincident with Ripley's decade, there were 638 advances and 296 reductions in less-than-carload ratings, 259 advances and 580 reductions in carload ratings, and that on the basis of the shipment of 100 pounds of each of the articles affected, from New York to Chicago, the effect on revenue would be: for the former, increase $69.97, decrease $71.35; for the latter, increase $27.05, decrease $129.72½. There were available no statistics of volume of movement for the different classified articles, but Mr. McCain notes that "the preponderance of decreases is in articles which contribute most largely to the total tonnage while the reverse is true as to the greater number of increases in classification."[1] We may also note, in general corroboration, the statement made in the carriers' brief in the five-per-cent rate case:

> The deduction from the history of the classification during the period of 23 years [1887-1910] is that there has been a general downward tendency in

[1] Page 43 of the pamphlet.

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both carload and less-than-carload ratings, which was only partially arrested by advances made by the carriers in 1900, while the six classes in the official classification have carried the same rates since 1887.[1]

There are some evidences of inadequate revision of this chapter on rate movement. Dr. Ripley tells us that the tendency towards higher-grade tonnage has been notable, especially since 1900, though, on the previous page but one he has laid considerable emphasis on the fact( !) that a steady increase, relatively, in the volume of low-grade traffic has long been under way. Again, relying upon a table taken from the report of the Senate Finance Committee (1893), giving the percentage of tonnage in each class of westbound freight on trunk lines, for selected years from 1878-1892, he proceeds to point out, for instance, that fourth-class freight, during the fourteen years covered by the statistics, decreased from 57.9 per cent to 10.4 per cent, while sixth-class freight increased from nothing to 43.4 per cent, but not a word is said as to how far this change of percentage represents merely a change of classification practice. Further, in discussing local traffic, he refers, by note, to the high proportion of such business in the South, though previously he has allowed a possible defence of locally high rates in that territory, on the ground that local business is scanty. There are other erroneous or confusing statements but they are of insignificant importance.

The unsatisfactory nature of this treatment of rate movement, the final section of Ripley's discussion of railway-rate theory and practice, cannot interfere, however, with the recognition of the great merits of his general discussion. It is certainly assured of a leading place in the literature of its subject.

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[1] Page 4713 of the evidence.

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# REVIEWS

*Property and Contract in their Relation to the Distribution of Wealth.* By RICHARD T. ELY. New York, The Macmillan Company, 1914.—Two volumes; xlvii, vii, 995 pp.

The time has long been ripe in the United States for a serious and scientific treatment of the relation between private property and contract and the distribution of wealth. Students of social politics were naturally filled with great expectations when a work on that subject by Professor Ely was announced, for the learning and researches of the author seemed to guarantee, besides thoroughness and scholarly finish, that fine detachment so necessary to a satisfactory analysis of so controversial a theme. But, painful as it is to say it, they will be necessarily disappointed with the imposing volumes now submitted. Instead of a closely-knit and logical work, serried by statistics and buttressed by reference to the cold historical facts in the accumulation of riches, they will find a collection of discursive essays containing much that is pertinent and wise, but for the most part made up of general reflections, moralizings, and cautions that have been familiar to all students of political economy for the last half-century. They were already old when Professor Ely gathered them from Wagner, Schmoller, and Knies many years ago.

The whole work might be summed up in a paragraph like this:

Property is socially useful. So is contract. But the rights of property and of free contract may be pushed beyond the bounds of genuine utility. In fact, at the present time, property is so narrowly concentrated as to deprive vast numbers of people of private property. But we should be cautious in attempting to tamper too much with the historical distribution of wealth. Sometimes the courts have been a little too restricted in their view of private rights, and they need some social as well as legal training.

No one can hope to come to a just understanding of the present status of property without an examination of the precise historical origins of property in land and the exact processes of capitalist accumulation; but we look in vain in these pages for an illuminating discussion—for any real discussion in fact—of these momentous matters. The distribution of wealth is a statistical matter, but there are no original contributions to the statistics of wealth in Professor Ely's work. Vast



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masses of property are becoming socialized, but there is here no statistical evaluation of this movement. This is a matter of commanding importance and Professor Ely does not overlook it. He meets the demand for a material analysis of it, by reminding us that the picture galleries and some of the parks of European monarchs have been thrown open to the public—socialized (pages 477–481)—and that Lady Warwick has determined to make her historic castle a "benefit to others."

At the close of his survey of property Professor Ely thus summarizes his fundamental conclusion:

> This concludes our study of property. Where do we now stand? We find that distribution takes place as the result of the struggle of conflicting interests on the basis of the existing social order, and of this social order we have examined the main feature, namely, private property and public property. Distribution takes place then not on an exclusive basis of private property, for we also have public property. Moreover, private property itself is not absolute but limited in intensivity. This, then, is the point that we have reached in our study of distribution.

Surely this is not a striking conclusion to reach at the end of 549 pages.

At the close of two hundred additional pages, containing a valuable but by no means new survey of contract, particularly as understood under the Constitution of the United States, Professor Ely comes to another fundamental conclusion:

> To strike at the roots of all contract is to strike at the foundations of society. To uphold the sanctity of contracts is doubtless a prime business of government, but it is no less its business to provide against contracts being made, which from the very helplessness of one of the parties to them, instead of being a security to freedom, becomes an instrument of disguised oppression (page 750).

Surely this is a principle which has commanded the allegiance of all thinking persons for many a generation.

There is no doubt that Professor Ely has made important contributions to American thought; probably he has done more than any other economist to moralize the crude Manchesterism which flourished in the United States a generation ago and which even now may be found in many by no means obscure circles where Cobden and Bright are still oracles. But the work before us falls far short of that real greatness in treatment which the theme invited and which the author might have brought to it.

CHARLES A. BEARD.

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*The Origin of Property and the Formation of the Village Community*. By JAN ST. LEWINSKI. Studies in Economics and Political Science, London School of Economics, No. 30. London, Constable and Company, 1913.—xi, 71 pp., maps.

The problem of the origin and development of property rights in primitive agricultural communities has been studied in recent years from two different sides. Medieval historians have faced it in tracing the rise of the manorial group in northwestern Europe, and have exhibited admirable patience and erudition in their attempts to disentangle the web of influences of which the manor was a resultant. The author touches this aspect of the question with occasional references—not always above reproach, it must be said, for Maurer and Nasse have lost their standing as authorities on medieval conditions—but his main contribution is of a different kind. He takes his stand, namely, with Hildebrand, Simkhovitch and others who approach the problem from a study of the recent and existing land systems of eastern Europe and Asia. His little book is rich in extracts from Russian publications, official and other, describing the development of land tenures among the less advanced peoples of Russia and Siberia, and will be of interest and value to the student of institutional history even though the author's interpretation of the facts may not be entirely acceptable.

Lewinski is frankly rationalist in his attitude; one is tempted to say that he belongs to the Austrian school of village-community theorists. He starts with "the assumption that man's relation towards material goods is determined by the *economic principle*, the desire to obtain the greatest possible quantity of objects necessary for the satisfaction of his wants, with the least possible effort." He believes that he can explain the development of different forms of property from the combination of "four simple elements: (1) the economic principle, (2) the principle of numerical strength, (3) the growth of population, (4) the relation of nature towards human wants." The reader must be referred to the book itself for further explanation and application of these terms. They appear to the reviewer to be very far from "simple," to resolve themselves, in fact, into the great aspects of history: economic, political, social and technical. It is dangerous to attempt to reduce history to a formula, even when it is expressed in the broadest terms, and it is hard for the reader to shake off the uneasy feeling that facts cited from the Slavic authorities may have taken on a subjective coloring from the author's prepossessions. Still it must be said that the author appears to be entirely candid and shows in general such com-

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mon sense that one is strongly tempted to accept the concrete contributions that he makes from the Russian sources, if not their general interpretation.

In the most primitive stage the author finds no property in land. Ownership attached first to individuals, not to communities, and grew up piecemeal on different kinds of land. Communal land tenure was a later development, forced by the increase of population, and marked by successive stages of public control: (1) restriction of the right of free occupation; (2) transfer by the community of landed property from one person to another; (3) periodical division of the land among members of the community.

The noteworthy feature of Lewinski's view is that which makes communal ownership the result of a social revolution, carried on by the poor against the rich who had appropriated more than their share of the land. However this may be in Siberia, we shall want further evidence before accepting it as a true picture of the development in Russia. Simkhovitch has given a very different explanation of the Russian communal tenure, tracing it to influences working down from the higher political organization rather than up from the people at the bottom. Lewinski has not attempted to combat in detail the evidence which connects the Russian communal tenure with the institution of collective responsibility under a growing burden of taxes, and his assertion that direct attempts of the government to introduce or extend the communal tenure have failed does not touch the heart of the matter. In Java, where the institution of communal property in [illegible]y be studied almost if not quite as well as in Russia, the evidence is strongly opposed to Lewinski's view. The reviewer remembers to have found only one district in which the process of development of communal tenure seems to have followed the course that Lewinski supposes. In a number of villages in Madioen, men holding land by individual hereditary tenure were forced by a majority vote of the villagers, including the landless proletariat and a considerable share of newcomers, to surrender the land into communal ownership. (Eindresumé van het onderzoek naar de rechten van den inlander op den grond op Java en Madoera, Batavia, 1876 ff., vol. 2, p. 201). Even here, however, the evidence connects the change in tenure with the extension of the culture system; and in general there is abundant proof in the Eindresumé and also in the administrative reports, printed in Raffles's *Substance of a Minute*, that the burden of taxes and of forced services was the active cause of the introduction of communal tenure. Furthermore, in connection with Lewinski's theory that the growth of population was an important

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element in leading to the substitution of communal for individual tenure, it should be noted that the natives of Java testified in some cases that the communal tenure was the result of a *decline* of population, due either to epidemics or to emigration. (Cf. Eindresumé, vol. 2, pp. 70, Tegal; 101, 103, Banjoemas; 162, Japara; 185, Rembang.) This would be the natural result if an attempt were being made to apportion the land so as to raise to the highest the tax-paying capacity of the community; but if we attempt to apply Lewinski's theories, while we can see some reason for a fresh distribution of the land, no reason whatever appears for the introduction of the communal tenure.

With all that the author says in criticism of the theory that communal land tenure is a product of racial peculiarities the reviewer is in hearty sympathy. But when the author closes his book, as he began it, by asserting that the evolution of property in land "is the result of the combination of four simple elements" the reviewer believes that he is deluded: that his elements, in general, are not simple, and that, in particular, they are not all properly applicable.

CLIVE DAY.

YALE UNIVERSITY.

*The Financial System of the United Kingdom.* By HENRY HIGGS. London, Macmillan and Company, Limited, 1914.—x, 218 pp.

The character of this work is properly described in the preface as a summary exposition of the British financial system, its organization, methods and forms of procedure. It deals with public and not with private finance, and emphasizes expenditures rather than revenues. It has practically nothing to say about banking or the money market and little to say about taxation.

The book contains nine chapters and fourteen helpful appendices. Three chapters dealing with "estimates," their preparation, presentation and procedure in Parliament are followed by a single chapter on the budget and a detailed description of the accounts under which the financial operations of the United Kingdom are recorded and presented to Parliament. The organization and work of the principal financial departments are then described in two chapters; and the book concludes with two chapters on public credit—one dealing with the administration of the national debt and the other with public-work loans and special accounts. The appendices include important laws or orders dealing with financial organization and procedure, illustrative forms and accounts, and occupy more space than the text proper.

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The text is an undraped outline of structure, mechanism and process; a skeleton whose vital functioning and animating spirit the reader is left to imagine or learn from other sources. How the structure came to be or how well it serves are not discussed. The book, however, is accurate, comprehensive and copious in reference to sources and authorities from which the reader can fill in the bald outline which it contains. "The present work," says the author in the preface, "is too condensed to be interesting. It must suffice for the present if it is found to be useful." It will be found exceedingly useful by students of British public finance, particularly by American students who are interested in financial administration and budgetary procedure.

THOMAS S. ADAMS.

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*Working Girls in Evening Schools. A Statistical Study.* By MARY VAN KLEECK. Russell Sage Foundation Publications. New York, Survey Associates, 1914.—xi, 252 pp.

This little volume is a well-illustrated, well-written picture of the industrial life of working women in New York city, painted from sketches obtained through the evening schools. During the winter of 1910–11 there were enrolled in the evening schools of New York city 39,242 women, with an average attendance of 15,665. Of this number 13,141 responded to queries made during the investigation. The presentation claims to be typical of women in industry and on this basis occupations, hours of labor, exploitations, schooling, and age of beginning work are described. The object is avowedly to "afford a foundation for further intensive study" and to offer facts "as a basis for planning new types of industrial courses."

But the study does not seem to fulfil its aim. We are not given any analysis which suggests the line or lays the "foundation for further intensive study," and we are given no resulting program for "new types of industrial courses." Curiously, about fifty-eight per cent of the women reported as being employed in manufacturing and mechanical pursuits are in trades for which day and evening vocational training is afforded to a limited degree. Here, as so frequently, the truth is not discovered. The fault is not in the type of training which has been established, but in the small extent of that training. When this winter the Manhattan Trade School was forced to shut its doors in the face of 500 little girls who were seeking vocational training in day classes, why do we demand new types of schools instead of more schools?

Two chapters deal directly with evening school problems, showing

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clearly the irregularity of attendance and the failure to meet vocational demands, except in the Manhattan Trade School for Girls, which is apparently responding effectively to a real need. The study disclaims any intent to report on the schools; but the reviewer is of opinion that the value of the book is to be found in these two chapters, and regrets that greater emphasis is not placed upon the constructive suggestions herein contained.

It is to be questioned whether the girls who spelled the word "operator" in sixteen new and original ways, each worthy of note, are to be trusted to fill in a card, even so "simple in form" as the one used in this investigation. We fear this originality would militate against accuracy. It is stated that the members of the staff "visited each school and fully explained the plan to the principal." The cards were then distributed to the women in each class-room, to be answered "under the direction of the teachers." But schedule-making requires the careful immediate supervision of an investigator, who has been prepared for the specific task.

It is also to be questioned whether this picture of occupations, hours of labor and schooling of working women may be accepted as typical. According to the figures here presented the proportion studied in trade and transportation is too large to be representative. A similar question arises when nationality is considered. The reviewer does not deem the conclusion on page 36 sound and believes that the figures show that the evening schools should be prepared to meet the needs of a non-wage-earning group as well as of a wage-earning group. The form of tabular presentation is open to criticism. For example, Appendix i, Table F, would be better if drawn in the same form as Table G. Table J makes for economy, but it does not make for clearness and it is contrary to the standard for which we have so long been struggling. Brevity in captions throughout the text where one-half the table is devoted to the headings, as in Tables 9, 11 and 19, would release space and cost for the needed increase of space and cost in the appendix, and would at the same time result in clearness and force in each place.

The suggestions presented in Appendix ii are excellent. If our evening schools will recognize the value of acquiring such data, will carefully keep such records, and will then analyze them and apply the results, we may hope for effective accomplishment in relation to the industrial as well as to the social and physical activity of our youthful and of our adult workers.

SUSAN M. KINGSBURY.

SIMMONS COLLEGE.

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*The Public Schools and Women in Office Service.* Edited by MAY ALLISON. Boston, Women's Educational and Industrial Union, 1915.—xv, 187 pp.

This book is the latest contribution to the Studies of the Economic Relations of Women which have been made during the last few years by students in the research department of the Women's Educational and Industrial Union. It is a study in vocational education. It aims to present the business, economic, and social conditions which confront the public commercial high school and which should determine the formulation of its curriculum.

Nine of the eleven Boston high schools have commercial courses including classes in phonography, typewriting, and bookkeeping. In 1912–1913, nearly two-thirds of the girls enrolled elected one or more of these technical subjects. In sections of the city where economic pressure is greatest, as many as four-fifths of the girls were in the commercial classes. Almost as large a number are enrolled in the evening commercial high schools. From the standpoint of the high school, therefore, it is evident that the program for the commercial class is an especially important one if the needs of the pupils are to be adequately met. It must also be directed, as the report points out, towards a preconceived end of efficiency in useful employment.

In order to accomplish this end, the school must have information on the kinds of office work open to women; the requirements of education, maturity, technique and personality requisite for the different occupations; the opportunities and conditions determining advancement; and the openings for and requisites of the beginner. This information the report furnishes in a chapter on the character of office service.

The economic importance of adequate preparation for office work is convincingly set forth in the chapter on wages. In the tables that are given to show the relation between wages and schooling, almost without exception wages rise with educational equipment. Experience is important, of course, but emphasis is laid upon the necessity of a well-balanced education to supplement good technical training if success in office service is to be assured. "Those without the opportunities for obtaining these requisites," the report goes on to say, "would better be directed into some occupation where they would have greater opportunity for success."

A chapter on home life and responsibilities furnishes data on the economic and social background of the girls who attend commercial

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classes. On a basis of such information, schools may modify their program to meet the needs of special localities. It must be flexible enough to adapt itself on the one hand to a district where large numbers of the pupils are of foreign-born parents, and on the other to a neighborhood where the girls come from native-born families representing greater knowledge of American social and business customs. The study points out that the economic condition of most of the girls is such as to make it practicable for the schools to advise both parents and daughters of the vital importance of prolonged education as a training for stenography and bookkeeping. This is especially necessary in view of the fact that many of the pupils in the evening schools have had only a grammar-school education.

The book closes with a series of concrete recommendations to the educator and placement agency; to parent and child; and to the business man. The substantial principles of the report have been embodied already in the new Clerical School of Boston opened last September. The method of study and the general principles formulated will be of interest and suggestive value to many educators elsewhere who are trying to meet the needs of the large numbers who come to their commercial classes.

EMILIE J. HUTCHINSON.

COLUMBIA UNIVERSITY.

*Livelihood and Poverty*. By A. L. BOWLEY and A. R. BURNETT-HURST. With an Introduction by R. H. TAWNEY. The Ratan Tata Foundation. London, G. Bell and Sons, 1915.—222 pp.

The object of the Ratan Tata Foundation, of which the headquarters are at the School of Economics, Clare Market, Kingsway, London, W. C., is to promote the study of methods of preventing and relieving poverty and destitution. The Foundation makes inquiries into wages and cost of living, methods of preventing and diminishing unemployment and measures affecting the health and well-being of the wage-earning classes. The results are published in pamphlet or book form. In addition to disseminating information, the officers of the Foundation "will, as far as is in their power, send replies in individual inquiries relating to questions of poverty and destitution, their causes, prevention, and relief, whether at home or abroad." *Livelihood and Poverty* is the sixth in the series of the publications of the Foundation, and it is an admirable example of the work which the Foundation is undertaking.

Northampton with its shoe industry, Warrington with its iron and steel, its chemical and its brewing industries, Stanley, as a center of the

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coal trade in the great mining county of Durham, and Reading, a large center in the biscuit trade, are typical English industrial towns. Only Stanley, however, can be described as a labor camp; for Northampton, Reading and Warrington are old market towns, with the usual market-town trades and commercial activities, and each was a place of some commercial and social importance centuries before the industrial era and the days of labor camps, of which England has now its full quota.

In each of these large towns—at least three of them would be called cities in this country—the method of investigation has been to take a certain proportion of the working-class homes and make house-to-house inquiries in accordance with a uniform schedule of queries; in the case of Northampton the number thus investigated was 743. Householders generally were surprisingly ready to submit to unofficial investigation; and on the whole their replies as to wages and rent were correct, and these replies stood the test of further investigation. Most of the large employers of labor were equally accommodating in checking or supplementing wage figures. The result of an enormous amount of careful scientific investigation, on lines much like those adopted in the Rowntree investigation at York, is a volume of data—all skilfully marshaled in text or tabular form—of great value in determining working-class conditions in England.

The war, with its disturbance of financial, commercial, industrial and social conditions, was not in sight when the investigations at Northampton, Reading, Warrington and Stanley were made. Trade conditions were then normal. With the outbreak of the war the Bowley-Burnett-Hurst study of economic and social conditions in these four towns has a value that its authors could not have contemplated when they were engaged on their field research; for at the end of the war a new epoch in English history—political, economic and social—will begin which must outrank in importance the epochs that began with the Revolution of 1688, the American Revolution, the end of the Napoleonic wars and the Reform Act of 1832.

Some of the surprises of *Livelihood and Poverty* are the bad housing conditions that still survive in these English towns, and the fact that the old domestic method of shoe manufacturing has still some survivals in Northampton. It is cheering to note that machinery is displacing hand labor—mostly the labor of women and girls—in the monotonous and exhausting work of fustian-cutting in Warrington, one of the largest centers of the velveteen industry in England. Moreover, as was to a great extent the case when nearly thirty years ago machine composition began to take the place of the method that was as old as letter-press

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printing, fustian cutting by machinery seems likely to result in comparatively few additions to the ranks of the unemployed.

EDWARD PORRITT.

HARTFORD, CONN.

*American Labor Unions.* By HELEN MAROT. New York, Henry Holt and Company, 1914.—ix, 269 pp.

The profound agitation among organized and unorganized workers during the past few years has carried the interest in the words and deeds of the labor movement far beyond the university seminar or the economic organization. The business man, the lawyer, the office clerk, the banker, the clergyman, affected directly or indirectly by the recent social storm, have been forced out of their former state of indifference and have found themselves discussing and judging the claims of labor at their places of business, in their homes, from the pulpit, and in the people's column of their newspaper. This growth of interest has not been accompanied, however, by a corresponding increase of understanding of the fundamental problems and principles involved. The vast amount of newspaper and magazine writing which has appeared in the last two or three years has done but little to clarify the matter, and those who have the destinies of labor at heart have felt this very keenly.

This feeling and a desire to present the "labor point of view" as clearly and as forcibly as possible have prompted Miss Marot to write her book on *American Labor Unions*. Miss Marot has been a member of The American Federation of Labor for years, and was executive secretary of the Women's Trade Union League of New York from 1905 to 1913. Her experience with the labor movement has given her an insight into the detail and technique of labor organizations which few writers outside the labor movement possess. On the other hand, her contact with wider social groups has enabled her to see the larger aspects of the movement which she describes.

The purpose of Miss Marot's study is to describe the aims, scope, and methods of the American labor movement for those who have but little knowledge of it or who draw their knowledge from sources antagonistic to labor. The twenty chapters of the book cover a wide field, reviewing the principles and mechanism of the American Federation of Labor, the Railroad Brotherhoods, the Industrial Workers of the World, and minor organizations. The topics discussed include almost every aspect of the labor problem, such as strikes, boycotts, the label, arbitration, violence, sabotage, legislation, scientific management, and

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so on. As the author frankly states in her preface, all this is done from the partisan point of view of one who believes that labor is here to achieve new social relationships and that it has no reason to mince words or to smooth the rough edges of its philosophy.

As a descriptive piece of work Miss Marot's book is clear, readable, and intelligent. There is throughout the book a consciousness of the realities and difficulties of the task of labor which helps the author to moderate her otherwise unrestrained tendency to take the extreme point of view. Though the book reveals but little imaginative insight into the psychological aspects of the labor world, it will prove very helpful to the reader who wishes to inform himself on the policies and organization of the American labor unions.

LOUIS LEVINE.

COLUMBIA UNIVERSITY.

*The Political Science of John Adams: A Study in the Theory of Mixed Government and the Bicameral System.* By C. M. WALSH. New York, G. P. Putnam's Sons, 1915.—xii, 374 pp.

John Adams was a profound and penetrating thinker in the field of politics and constitutional government. Long after interest in his administration as president of the United States has become antiquarian, students will read his treatises and essays on political science, just as they read their Aristotle or Machiavelli. Moreover, in that re-writing of American history which Professor Becker has prophesied will come to pass during the next generation, Adams and his philosophy of government will occupy a high place—and justly so. The wonder is that no one thought it worth while to make an exhaustive and systematic survey of his political science until Mr. Walsh brought out the volume now before us. But this long delay will make us all the more grateful for what we have received.

Mr. Walsh has examined Adams's writings with evident pains and discrimination and has arranged most of the results of his researches under the following heads: early democratic views, division and classification of governments, badness of simple governments and need of a balance, orders and classes in government and society, control of the aristocrats in mixed government, the general structure of government, the executive, the senate, the house of representatives, the two houses and the executive, the judiciary, criticism of the federal constitution, his monarchism, and his typical scheme of government.

The method of treatment adopted by Mr. Walsh is not that of long

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illustrative quotations, but of the digest, fortified by copious citations and illuminated by references to the general course of political thinking in the United States and the Old World. The volume is so well done that one may safely call it definitive. No other student of political science will be able to add anything fundamental to Mr. Walsh's analysis and commentary, so far as the works of Adams go.

In view of our author's success in dealing with the main topic which he has chosen, it is perhaps unfortunate that he makes an excursion in the latter part of his book into a comparison of Adams's doctrines with those of other political philosophers, notably Calhoun, and then adds a further section on the controversial theme of bicameralism. This does not mean to imply that what he says on these topics is not pertinent or effective, but the comparative view is necessarily brief and fragmentary, and in his treatment of the question of the double-chamber legislature Mr. Walsh assumes the rôle of an advocate. The inquiry into Adams's political science is substantial enough for an entire volume, and the additional topics, if treated according to their merits, deserve more than an afterthought. No fair-minded person, however, will deny the value of Mr. Walsh's treatise, even if he finds himself out of accord with some of the practical applications.

CHARLES A. BEARD.

*Die Monroedoktrin in ihren Beziehungen zur amerikanischen Diplomatie und zum Völkerrecht.* By HERBERT KRAUS. Berlin, J. Guttentag, 1913.—480 pp.

It seems curious that the first systematic treatise on one of the most fundamental principles of American polity, its most distinctive principle perhaps, should have been produced by a foreigner. Doubtless this has a real advantage in that such a writer is enabled the more readily to handle the subject from a detached viewpoint. The advantage is still clearer when one knows that Dr. Kraus gained his knowledge through legal and historical studies carried on in the United States.

Works on the Monroe Doctrine put forth by Americans have been either general surveys, popular accounts or histories of ancillary events. The book by Dr. Kraus, on the other hand, is devoted to an examination of the origin and development of the doctrine solely as a political principle. So far as was needful to introduce historical incidents, the author has utilized them as a background on which to trace the process. He makes no claim to handle the topic from all sides or in any exhaustive fashion. Moreover, he has refrained in general from contro-

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versial discussion, and has passed no judgment as to wisdom, utility, practicability or possibilities, beyond pointing out what he regards as the meaning of the Monroe Doctrine in the past and what he thinks its present significance is.

Provided with an extensive bibliography and elaborate footnotes, references and appendices, the book exemplifies the genuine German faculty of *Gründlichkeit*. The author divides his theme into three main sections: the origin and content of the Monroe Doctrine as first enunciated; its development from 1823 to the present time; and its relation to international law. He regards the idea of isolation as the guiding principle of the United States before 1823, and finds his thesis upheld by an avoidance of alliances, the axiom of neutrality, the special attitude of reserve toward the recognition of new states or governments, and above all, the summation of these lines of conduct in the maintenance of self-defence. While studying the evolution of the Monroe Doctrine he sets forth the view that it represents two basic principles. One is that which restricts the freedom of political activity on the part of non-American nations in America. This he thinks has been steadily strengthened. The other is that which restricts the freedom of political activity on the part of the United States in areas outside of the Americas. This he believes has been correspondingly weakened. The object of the former, whether consciously or unconsciously pursued, is to enhance the power and prestige of the United States, thus ensuring its hegemony on the American continents.

In this connection it would have been very interesting if Dr. Kraus had brought his knowledge and acumen to bear on the discussion of what may be termed the "obverse side" of the Monroe Doctrine. He has treated its defensive and compensatory aspects, but makes no allusion to the fact that, whatever its application to oversea conditions, the doctrine is in no sense a self-denying ordinance. It is partly because of the somewhat minatory silence on this point, which has enabled the United States and other nations of America to seize the territories of their neighbors, and partly because of the mighty growth of this country, that the Latin-American republics have been disposed to view us with apprehension as the "Colossus of the North." One may seriously doubt, also, whether the Monroe Doctrine has promoted the United States in any way whatever to a position of hegemony. It might be seriously affirmed, on the contrary, that our headship would have been quite as secure and effective if the principle in question had never been enunciated. This latter phase of the subject, also, Dr. Kraus does not consider.

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Within the limits set for his task, nevertheless, the author has produced a treatise of an exceedingly high order of merit. In scholarship, breadth and poise it is so commendable as to warrant speedy translation. When this is done, needful care will be taken, doubtless, to remove a number of minor defects. These consist, for the most part, of typographical slips, unusual forms of abbreviation, inaccurate spellings of proper names and erroneous methods of capitalization in connection with references or quotations in English. Greater errors occasionally occur, as for example the allusion to Whitelaw Reed [*sic*] as an English ambassador in Washington (page 36). In the process of revision, also, the bibliography of secondary materials needs a thorough-going elimination of the popular histories and journalistic productions which it contains. To avoid any impression of pedantry, many of the works cited there and elsewhere might suffer omission without loss in other respects. Brief comments, finally, on the especial value of the books consulted for an elaboration of any of the particular phases of the subject would be of value.

WILLIAM R. SHEPHERD.

*The Pan-Angles.* By SINCLAIR KENNEDY. New York, Longmans, Green and Company, 1914.—ix, 244 pp.

A few years ago an American historian who has won a deserved reputation as an authority upon certain phases of British imperial history suggested the eventual reunion of the English-speaking peoples in hazarding the conjecture "that the political evolution of the next centuries may take such a course that the American Revolution will lose the great significance that is now attached to it, and will appear merely as the temporary separation of two kindred peoples whose inherent similarity was obscured by superficial differences, resulting from dissimilar economic and social conditions." Mr. Sinclair Kennedy believes that the time has come to work for a federation of the English-speaking, self-governing white peoples, who inhabit and rule the "seven nations" of New Zealand, Australia, South Africa, Newfoundland, Canada, the British Isles and the United States, and whom he designates as "Pan-Angles." There is a fundamental unity of life and culture in these seven nations which not only speak a common language but hold essentially the same views of society and government. As a good "Pan-Angle" the author accepts almost as an axiom the superiority of the civilization to which he belongs; still he graciously concedes the right of others to a like opinion of their own.

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Though writing before the outbreak of the present war, in which the integrity of the Britannic world is at stake, Mr. Kennedy has caught the strain of apprehension that has been running through it strongly of late.

> . . . Slowly a consciousness is creeping over us by way now of London, now of Brisbane, or again of Vancouver or San Francisco, that all is not as safe for us as it once was. . . . To all of us has come this feeling. It is not merely the appearance of Germany in the North Sea or the South Pacific, nor the desire of Asiatic Indian coolies for entrance to the Transvaal nor the willingness of these and other Asiatics to share with us the wealth of North America. These are but signs. They forebode coming dangers whose extent we cannot foresee. Out of the future loom menacing forms, hardly more tangible and comprehensible to us than were the Teutonic hordes to the Romans. What latent energies lie hidden in the north and east we can only fearfully surmise.

While admitting that the federation of Pan-Angles is as yet a dream Mr. Kennedy believes that it is the only means of preserving their civilization from the forces that menace it from within and from without. The federation for which he hopes might conceivably be accomplished by a combination of the seven nations as individual units or by the union of a Britannic federation, if it shall be formed, with the United States.

Mr. Kennedy comments with gratification upon various events and tendencies indicative of closer and more intimate relations between the Britannic world and the United States, such as the commemoration of the hundredth anniversary of peace between the two nations, cheap postage rates between the United States and many of the Britannic nations, increasing community in educational and intellectual matters through the institution of the Rhodes scholarships, exchange professorships and other agencies, and conferences attended by delegates from Britannic nations and the United States.

It would be easy to point out difficulties in the way of the realization of such a federation as Mr. Kennedy proposes, and many such will present themselves to all well-informed readers of his book. There are several errors of detail which need not be noted here since they do not seriously impair the value of what is essentially a work of propaganda rather than of scholarship. The author's task was to focus attention upon an idea, not to develop a thesis in all its bearings. Even if federation is not at present within the realm of practical politics, the conception of Britannic-American unity has taken hold of too many minds to be pronounced a mere fancy or a delusion.

R. L. SCHUYLER.

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*Municipal Life and Government in Germany.* By WILLIAM HARBUTT DAWSON. London, Longmans, Green and Company, 1914.—xvi, 507 pp.

Mr. Dawson's earlier writings have given him a high reputation as an interpreter of German institutions, and the sureness of touch and wide range of vision which mark this new volume are the natural result of a first-hand observation spread over a period of twenty-five years.

In common with others who have recently described municipal government in Germany, Mr. Dawson has fixed his attention rather upon what the cities accomplish than upon the way in which they are organized. His interest is rather physiological than anatomical. All but five of the eighteen chapters are devoted to the discussion of municipal functions, the subjects being taxation and finance (an extended treatment covering 100 pages), land policies, town-planning, housing, public health, trading enterprises, poor relief, social welfare and the institutions which directly promote intellectual life (schools, libraries, theatres). The activities are so wide in range and so efficiently conducted that one can understand well enough the author's sustained enthusiasm for German, and somewhat contemptuous attitude towards English, practice. While "nothing human is alien to the German conception of town government," the mental horizon of the average English municipal politician is "limited to drains, building plans, and road making." In explaining German success Mr. Dawson takes the same view as Dr. Howe. "Wide self-government," he says, "is the secret of the splendid administration of these towns;" and the same explanation recurs again and again not only in the chapter on administrative powers but also in the discussion of particular functions. While the powers of a town council in England, as described in a scattered mass of statutes and decisions, are always a matter of uncertainty, the officials of a German town "can do everything, in fact, which the good government of the town may seem to require."

But, whatever may appear from isolated passages, Mr. Dawson by no means regards municipal home rule as the sole promoter of efficiency. He is quite as emphatic in rendering tribute to the part played by the permanent trained official. In his opinion the place accorded to experts—to the salaried and professional mayor and magistrates—gives the German system a decisive superiority over the English. "The German system represents both a higher and more efficient form of municipal organization than our own. To deny that would be to imply that the modern Parliament, with its corollaries of a paid

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ministry and a body of permanent officers known as the civil service, presents a decline from the old national folk-mote." The English system is condemned because power rests altogether with the elected council, made up of amateurs; because, therefore, responsibility, the title to praise or blame, rests, not with the permanent servants, but with the council; and because, with changes in the personnel of that body, "it is difficult to carry out, on any question whatever, large policies needing foresight and steady, continuous action, uninfluenced by the wavering favor of a fickle electorate." Already this government by amateurs, unable to cope with the unlimited needs and rapidly-expanding enterprises of the modern municipality, is showing unmistakable signs of distress. One of two courses may be taken. Either the council may surrender to the experts a larger and larger discretion while necessarily retaining responsibility for their acts; or the whole system may be recast along German lines with an independent administrative body subordinated to the council only in matters of finance. Municipal workers who have studied the German arrangements, Mr. Dawson says, are coming to believe that force of circumstances will compel the adoption of the latter course. He admits that to Englishmen, who prefer the worst amateur to the best expert, this will sound like strange doctrine. Perhaps there are others, outside England, who think that, through its representatives, "the fickle electorate" should still have something to say in the framing of policies.

E. M. Sait.

*Carrying Out the City Plan.* By Flavel Shurtleff. New York, Survey Associates, Inc., 1914.—ix, 349 pp.

During the last decade or so a vast change has come about in the popular notion of what city-planning means and what it is for. As a harmless diversion it no longer exists. It has long since ceased to be an expensive and unproductive luxury interpreted solely in terms of shade trees and parkway vistas; it has come to stand in the minds of municipal statesmen for the complex problems of congestion, unearned increment, rapid transit, rent and taxation. Its challenge is social, economic and legal as well as esthetic. In fact one of the most serious problems to be faced in any thoroughgoing town-planning project is that of legal authority to act. How much power has the state legislature granted to the city? How much power does the state constitution permit the legislature to grant? How much power does the Federal Constitution allow the state legislature to grant? It is in answering

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these questions that Mr. Shurtleff's volume is a timely and informing study.

The various methods of carrying out the city plan are treated in their legal aspects. The author turns first to the public ownership of land. American cities, in striking contrast to those of Germany, may acquire land only for a specific public purpose and may use the land thus acquired only in the way specified. While such a restriction works for stability in the execution of the plan it also deprives the city of the great economies which might result from using for building sites land acquired and no longer needed for other definite public purposes. It also prevents the city from buying cheaply land which it will need for public use in the more or less distant future. There follows a rather dismal recital of our cumbersome, expensive, and not very efficient types of procedure in the condemnation of land. The author urges that the possession of land condemned by the city should not be obliged to wait till disputes over the amount of money damages are adjusted to the satisfaction of all the litigants. After discussing various types of tribunals used in settling damage and compensation disputes he concludes that whatever tribunal may be best it should be non-partisan, permanent and well paid. A chapter on "The Distribution of the Cost of Land Acquirement" deals with the financial problems of city-planning created by the almost universal limitations on the power of American municipalities to tax and to borrow money. Besides the radical proposal that limits on city indebtedness be removed, there are two methods of achieving the same result which have been devised by American ingenuity. One is the combining of city and county debt limits so as to double the borrowing power of the common geographical area, while the other is the purchase of land by the city on the installment plan. The general and serviceable "made-in-America" method of paying for public improvements is of course by special assessments; and a careful treatment is given of the history and technical problems of this system.

No discussion of practical town-planning nowadays is complete without some mention of excess condemnation, that ingenious scheme by which the city aims to pay for its public improvements out of its unearned increment by condemning more land than it needs and selling the surplus at the increased value caused by the improvement itself. Mr. Shurtleff surveys briefly the meagre experience which American cities have had with this policy and gives us a valuable though not exhaustive summary of the American statutes and decisions relating to excess condemnation. He finds that no serious attempt to employ

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this method of carrying out the city plan is possible without an amendment to the state constitution, and that even such an amendment may be attacked under the due-process clause of the Fourteenth Amendment. An analysis of the rather unfortunate experience of cities in France and Belgium and of London with excess condemnation as a financial expedient leads the author to the conclusion that it would be unwise for American cities to rely on it as a means of recouping the cost of extensive city-planning projects. In its less drastic forms, however, it may well be employed to protect the beauty of public improvements. A less radical substitute for excess condemnation may be found in a scheme of special assessments coupled with condemnation of easements.

In his discussion of the police power in carrying out the city plan Mr. Shurtleff draws attention to the recent progress made in the way of limitations on the height of buildings and the creation of districts in which certain uses of property are forbidden. The summary presented of the offensive uses of land which are not subject to governmental interference through the police power indicates how meagre are the results which may be hoped for from such a method. Little can be done in this way until public sentiment has been educated to the point of demanding that the public eye as well as the public nose and ear be protected from nuisance.

In a closing chapter the organization and work of planning commissions is dealt with. Under existing American law and policy the work of these bodies must continue for some time to come to be largely advisory and educational. Such educational work is, however, of immediate and vast importance, since real progress in the direction of wise and progressive city-planning can hardly move far in advance of the public will.

Mr. Shurtleff has narrowly limited the scope of his study. Exposition of European methods of dealing with city-planning problems is confined in the main to the financial results of excess condemnation. While a description of the practice of foreign cities would be irrelevant to the discussion of many of the problems of which the author treats, it is to be regretted that he did not give us at least a hasty sketch of the way in which the cities of Europe are dealing with the administrative problems of the city plan. It is upon this phase of the work that we hang most of our doubts as to the efficiency of American city-planning and it is here, therefore, that we would most welcome the lessons of foreign method and experience. There are a few seeming limitations of Mr. Shurtleff's book which are inevitable in view of the subject he is

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treating. That, as a statement of the law, it was in part out of date almost before it was printed is not a reflection upon the enterprise of the author, but a commentary upon the rapidity with which the city-planning movement is attaining legal recognition in the United States. If one is inclined at times to protest that the author has generalized upon one particular in his discussion of American city-planning practice, it is well to remember that in all probability there was but one particular upon which to generalize. If the pages are not laden with citations and the other ear-marks of erudition it is because the book is a pioneer in a hitherto unoccupied field.

Mr. Shurtleff has given us a satisfactory statement of the law with which those who would carry out a plan for the American city must reckon. He has earned the gratitude of all those who are seriously enough interested in city-planning to realize that it is a very practical problem, by throwing light upon what is, for the American city, the most immediate practical aspect of it.

ROBERT E. CUSHMAN.

UNIVERSITY OF ILLINOIS.

*The Life of Thomas Brackett Reed.* By SAMUEL W. MCCALL. Boston, Houghton Mifflin Company, 1914—xiii, 303 pp.

No one can contemplate the career of Thomas B. Reed without realizing how fortuitous are the currents of politics and how indifferent is time to fame. Many men who knew Reed, saw him in action, and understood the sincerity of his devotion to principle, long thought that he was marked out for the presidency of the United States. A clever journalist of Reed's time remarked that only his sense of humor and his acquaintance with French literature prevented his election to that high office. And yet the Czar of the House of Representatives has almost passed from the thoughts of all except those of his own generation.

Everyone who still has a place for Reed in his memory will be grateful for this biography and count himself fortunate that the task of writing it has been committed to Mr. McCall. It is a straightforward narrative of Reed's life from childhood to the end. The design of the book and the style are simple. There are light touches of humor which enliven the pages, and there is an occasional political excursus which adds to the interest of the story, but Reed's doings and sayings occupy nearly all of the volume. Obviously the author of the book finds fragrance in the memory of the man whose record he has set down, but no undue sympathy or partisan sourness mars any of the pages. Even

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those members of Congress, who once smarted under Reed's rulings and his raillery and are yet alive to read these pages, will find delight in them.

And still it must be said that to students of the history of the period covered by Reed's life the volume will prove disappointing in many respects. They will find very few passages in this work with which they are not already familiar. Reed knew all of the important people in politics in his day and his papers must have been voluminous, but there are in the pages before us relatively few original letters either to or from him. The great scenes in which Reed figured are here described for the most part from materials with which we are already acquainted. The inner history of the rush for the war with Spain was known to Reed, and yet we hunt in Mr. McCall's work in vain for any new light on that subject. Mr. McCall is justly reputed to have a mastery of the development and practice in the procedure of the House of Representatives, but his chapter on Reed's famous rulings does not go beyond the most obvious points in controversy. There are many other matters concerning which we search these pages for new information of high significance without finding it. Perhaps, however, the time has not come to do more than describe the ordinary events in Reed's career. Many of his contemporaries are still with us, and the passions and prejudices of his day have not yet died down enough to permit Mr. McCall to do more than sketch the familiar outlines of Reed's life. That was clearly the task to which he set himself and he has more than faithfully fulfilled it.

CHARLES A. BEARD.

*The Life of Rutherford Burchard Hayes.* Two volumes. By CHARLES RICHARD WILLIAMS. Boston, Houghton Mifflin Company, 1914.—xiv, 540; ix, 488 pp.

As a detailed narrative of the events in the life of Hayes this book is all that could be desired; but as an historical biography interpretative of the part played by Hayes in the history of his country it is somewhat disappointing.

The author has relied almost exclusively upon source material for his data, and has quoted copiously from Hayes's diary, hitherto inaccessible to scholars, as well as from his letters, speeches and state papers. On the whole, Mr. Williams has apparently laid a disproportionate amount of emphasis on Hayes's *life* to the neglect of his *times*. This shortcoming is probably due to the fact that the author is apparently

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not very widely read in the historical literature covering the period of Hayes's active political life. And though he is to be commended for making such extensive use of source material, nevertheless had he also familiarized himself more fully with a few of the leading secondary books on the period, very likely he would have avoided giving his biography a certain fragmentary appearance which in several parts it assumes. One example will illustrate the point.

In 1864 Hayes, having made an honorable though by no means brilliant record in the army, was elected to Congress from the Cincinnati district. He therefore took his seat in December, 1865, as a member of the 39th Congress—one of the most famous in the history of the country. Mr. Williams devotes thirteen pages to Hayes's congressional career, and of this space some five or six pages are taken up with a speech made by Hayes in the political campaign of 1866, in defense and advocacy of the congressional plan of reconstruction. There is nothing remarkable in the speech, and whatever of interest it might possess for the general reader is lost because the author has failed to give an adequate explanation of what the congressional policy of reconstruction was or how it came to be formulated. When one considers that Hayes's chief claim to fame rests upon his solution of the southern problem while president a few years later, it seems strange that his biographer should have to say of the legislation out of which that problem in large measure originated, only the following:

> The second session of the 39th Congress was tense and strenuous. The Republican majority continued to override the vetoes of the Pres[illegible]t in legislating for the reconstruction of the southern states, and com[illegible], to distrust the President almost absolutely, provided for a meeting of the 40th Congress on March 4, 1867, immediately on the expiration of the 39th. Throughout this session and the opening session of the 40th Congress Mr. Hayes acted consistently in support of the measures of his party [I, 289].

The first half of volume one is taken up with an account of Hayes's youth, education and career as a lawyer in Fremont and Cincinnati and as a volunteer officer in the Union army. The remaining half of the volume is devoted to his six years' service as governor of Ohio, the presidential campaign of 1876 and the contested election.

Mr. Williams seems to be more familiar with Ohio state history than with United States history in general, and his account of Hayes's career in Ohio politics is perhaps more illuminating than any other part of the first volume. In Ohio the "greenback heresy" was so prevalent that it came to be designated as the "Ohio Idea." Among its advo-

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cates were such able men as Allen G. Thurman, George H. Pendleton and William Allen, while Hayes was the most consistent champion of sound money. Against Hayes the Democrats, espousing the greenback cause, pitted each of these men in succession for the governorship. Each time they were defeated, but always by so narrow a margin that one is compelled to conclude that had the Republicans not been able to cover their advocacy of sound money with the mantle of patriotism, the greenback idea would have become something more than a heresy.

Mr. Williams does not add anything new of importance to the subject of the campaign of 1876 and the disputed election. However, his conclusion in regard to the decision of the Electoral Commission is that it was "legally right and sound," and this in spite of the fact that he was by training a Democrat, and until he made his own study had accepted "the common Democratic assumptions regarding the disputed election."

Volume two deals mainly with Hayes's career as president. In this position the author feels that Hayes accomplished four tasks that give him rank as a statesman of more than ordinary ability. The first of these tasks was to select his cabinet without dictation from such old party leaders as Conkling, Blaine and Cameron. Undoubtedly it took courage for him to name as members of the cabinet Evarts, Schurz and Key, when such action was sure to bring the enmity and even contempt of the powerful "stalwarts."

Secondly, Hayes's handling of the southern problem is regarded as indicating a high order of statesmanship. In carrying out a lenient southern policy, Hayes expected to build up in the South a Republican party whose leaders should be respectable native whites who would advocate equal though not necessarily universal suffrage. Though Hayes was disappointed in regard to this expectation, and though he was often misunderstood and even maligned by certain small southern politicians, he maintained a magnanimous disposition toward the southern people and seems never to have regretted his policy of conciliation.

In addition to giving Hayes credit for statesmanship in advocating civil service reform, Mr. Williams gives him great praise for his part in the resumption of specie payment and his efforts against the rising tide of "free silver." No man in his time—not even John Sherman—was a more consistent champion of sound money than Hayes. Against the advice of most of his cabinet, Hayes vetoed the Bland-Allison silver-purchase bill, but it was passed over his veto much to his disappointment and chagrin.

Though it is true that in his position on the money questions of his day Hayes was on the side of the "big interests," it does not appear

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that he was consciously their tool, as was the case with a large majority of his contemporaries and political colleagues. Nevertheless his political theory was not in any way different from that of Conkling or Cameron, whose political methods he so despised. It seems never to have occurred to him any more than to them that the large semi-public corporate interests should be subjected to any greater measure of government control than was applied to purely private and individual interests. That Hayes was an advocate of individualism while he was actively in politics was due to the fact that he had imbibed in early youth those individualistic ideas of government which were held by practically all Americans previous to the Civil War. Being personally well-to-do and living in a community where the people on the whole were prosperous, he saw no need to change those ideas.

A few years before his death, however, Hayes's vision began to widen. He confided to his diary or to his intimate friends some reflections which clearly indicate that he was becoming suspicious that a purely individualistic theory of government was inadequate to meet existing conditions. Some of these reflections are worth quoting. Writing to a friend, he said :

> It would be well if the power of supervision exercised by the Government over the national banks were extended to other things. The Interstate Commerce Law, one of the crudest ever passed, is yet one of the most beneficent in its results. The Government should say to dangerous combinations, "Thus far and no farther!" The Dartmouth College decision you and I have always regarded as an anchor that fixed things permanently in this country. I guess it was a mistake, and that it gave to capital a power that should rest only with the people [II, 384].

Then again under date of December 10, 1890, he has this entry in his diary :

> All fair-minded men admit that labor does not now get its fair share of the wealth it creates. The great question in our day plainly is the property question, the question of wealth. All see that it is not justly distributed. Shall it be held, controlled, owned by a few? Or shall it be wisely, equitably, that is widely, distributed? More and more, wealth gives power, estimation, reputation. Shall only a few have it? Wealth, education, opportunity, power go together. Shall they belong to a few, or to the many? They will rule always in a free country. Who shall rule, the few or the many—a plutocracy or a democracy? That is the question [II, 385].

On the whole Mr. Williams's biography is well worth reading. As intimated above, he might have given his facts a better historical set-

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ting, but from the standpoint of one desiring a picture of the unfolding of a noble character, it leaves little to be desired. After reading this book one is convinced that whether Rutherford B. Hayes was or was not a great statesman, he certainly was a good man.

B. B. KENDRICK.

COLUMBIA UNIVERSITY.

*The Model Member: Sir Henry Campbell-Bannerman.* By J. B. MACKIE. Dunfermline, Journal Printing Works, 1914.—140 pp.

The great war in which England is engaged will, it is to be feared, delay the publication of political biographies and books on history and political science. But as soon as conditions are normal it is not too much to hope that there will appear an official life of the late Sir Henry Campbell-Bannerman, whom Mr. Asquith succeeded as premier in April, 1908. By an official life is meant, of course, a biography written by an author who is in possession of the correspondence and papers of the late Liberal premier. In the meantime, Mr. J. B. Mackie's *The Model Member* serviceably tides over the waiting period; for it is written by a journalist and publicist of wide experience, who after years of editorial work in Edinburgh, and as a London and parliamentary correspondent, has now been for a long time editor of the *Journal*, the local newspaper of Dunfermline, the Scottish burgh that Sir Henry Campbell-Bannerman represented at Westminster from the third Reform Act in 1884–1885 until his death on April 22, 1908.

Mr. Mackie is the biographer of Duncan M'Laren, a brother-in-law of John Bright, who was of five parliaments between 1852 and 1885 as a member for Edinburgh. It would seem probable that the official life of Sir Henry Campbell-Bannerman will be written by Mr. Mackie. But in any event it is fortunate that Mr. Mackie is the first biographer of the late Liberal premier, and that the biography has been written from the point of view of Stirling burghs and Dunfermline. In most biographies of members of the House of Commons, and especially of men who reach the front rank at Westminster, this constituency point of view is lacking, and the relations between member and constituents are lightly touched upon or altogether ignored. Even when the full official biography is published, unless its author draws largely upon this present monograph, *The Model Member* will continue to be of unique value, because it is written from a point of view that is seldom taken by biographers of politicians and statesmen who during their whole public careers have been of the House of Commons.

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In the old days—from the Union to the Reform Act of 1867—the most popular Scottish member of the House of Commons was the politician who secured the largest number of appointments in the civil and colonial services for his constituents and their sons and nephews. This attitude of Scottish voters towards their representatives at Westminster was an inheritance from the days of Henry Dundas, the greatest of the parliamentary bosses of Scotland. But the large extensions of the parliamentary franchise in 1867 and 1884 and the reform of the civil service made an end to this conception of the primary duty of Scottish members; and gradually new and less individual conceptions were developed. Mr. Mackie's view of what should be the relations between representative and represented is thus expressed:

> For an enduring and happy connection between a member of Parliament and his constituents a genuine political sympathy is essential. To agreement in political conviction must be added on the part of the member devotion to the interests of his constituents, fidelity aud efficiency in the discharge of his parliamentary duties, a placable, reasonable temper that does not readily give or take offence, that smooths away misunderstandings and prevents alienations. When these qualities are prominent in the character and conduct of the political steward, confidence and pride are easy, because natural, for those whom he serves, and there is extended to him a generous toleration which a man under suspicion or conscious of estrangement can never enjoy.

The conditions of a happy political union, as Mr. Mackie shows, existed during the whole of Sir Henry Campbell-Bannerman's forty years' connection with the old Stirling burghs and Dunfermline; and, as was natural, Dunfermline regarded itself as a favored constituency when Sir Henry Campbell-Bannerman became premier in 1905. It had good reason for satisfaction; for during the long period from the Union to the successful contest with the House of Lords in 1909–1911, Sir Henry Campbell-Bannerman was the only Scotchman representing a Scottish constituency who attained the premiership as well as the leadership of the House of Commons.

EDWARD PORRITT.

HARTFORD, CONNECTICUT.

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# BOOK NOTES

English nineteenth-century history cannot be adequately understood without some familiarity with England in the eighteenth century; and there can certainly be no complete understanding of the industrial era in England, of the long struggles for the reform acts of 1832, 1867 and 1884–1885, of the frequently-recurring heated political controversies over elementary education, and of party history, without some realization of the position and strength of nonconformity in the eighteenth century. In the general histories, even in those based on ample research and in books of much detail, but little attention is usually given to nonconformity—to its relations with political parties and the state and with education, or to the men who were of the Presbyterian, Congregational, Baptist, and Unitarian churches. For this reason J. Hay Colligan's monograph *Eighteenth Century Nonconformity* (New York, Longmans, Green and Company, 1915; vii, 143 pp.) is of peculiar value. It is based upon careful research in long-forgotten books and pamphlets and on much discriminating use of manuscript sources. It is divided into short chapters that tend to ease of reading; it is admirably written and is so serviceable that it can not fail to make an appeal to students of modern English history, even if they are not concerned with Antinomian and Arian controversies and care but little for questions of ecclesiastical polity. The chapters on the nonconformist meeting-houses, the ministers of the Presbyterian and Congregational churches, the nonconformist academies, hymnology, the effect of the Wesleyan and Countess of Huntingdon movements, the older nonconformist bodies and the Church of England, form a notable contribution to the social history of England in the eighteenth century and also aid to an understanding of many of the political and social developments of the nineteenth century.

Books about Ireland—particularly books on its political history and on its old agrarian system—have been so long proverbial for their drab and depressing character that there cannot fail to be a cordial welcome for Dr. H. F. Berry's *History of the Royal Dublin Society* (London, Longmans, Green and Company, 1915; xv, 460 pp.). The society was organized in 1731. It was not the first society established in what is now the United Kingdom for the promotion of trade and agriculture. From 1723 to 1745 there was in existence in Edinburgh the "Scottish



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Society of Improvers in the Knowledge of Agriculture." But the Royal Dublin Society is today the oldest organization in Ireland, England or Scotland for the promotion of agriculture; and no society in the British Isles is more closely interwoven in the economy of the nation than is the Royal Dublin Society in the agricultural economy of Ireland. From its early years it was generously treated by the Irish parliament. It was at one time permitted to use committee rooms of the parliament building for its meetings; and from 1761 to the Union, comparatively large grants were made to the Society by Parliament—grants that were continued after the Union until as late as 1877. From 1761 to 1877 it was to some extent a government institution; and at one time the Irish parliament entrusted it with some oversight of the woolen and silk industries. In the eighteenth century there was scarcely an industry or a movement to improve in any way the rural economy of Ireland that was not aided by the Society. It also engaged in educational work—particularly as regards the fine arts; and it carried on this work until 1877, when it was taken over by the Science and Art Department. The National Library of Ireland, at which at the present time readers average over 700 daily, had its beginnings under the auspices of the Dublin Society, which since the changes of 1877 has been chiefly an organization for the improvement of agriculture. Dr. Berry's history has been compiled chiefly from the minutes and records. The material offering was voluminous, and Dr. Berry has shown excellent judgment in selecting what was of general and permanent value. The biographical and topographical notes help to a sustained interest; and the result is a volume that will come to be indispensable in the study of the economic and industrial history of Ireland in the eighteenth and nineteenth centuries.

At the end of the war the Government of Ireland Act will come into operation, and after an interval of nearly one hundred and twenty years there will once more be a parliament in Dublin. Much interest will then center in the personnel, organization, procedure and work of the new parliament. With this interest there will also be a reawakening of historic interest in the parliament that existed in Ireland from 1295 to the Union. Judge Bodkin's *Grattan's Parliament* (London, T. Fisher Unwin, 1912; 320 pp.) is a work which will meet a popular demand for books on the old Irish parliament. It will make a strong appeal to people of Irish descent in this country, for it is written in a readable and flowing style and with a strong nationalist flavor. Except so far as the numerous excellent illustrations may be helpful, it is not likely to be of much service to serious students of Irish history. It

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is without footnotes or bibliography; and the author has drawn on none of the authoritative histories of the Irish parliament and of particular aspects of it, that have been published in the last ten or fifteen years.

He who reads while running may fail to see any connection between sober political science and the brave lines of old Icelandic sagas, yet, as summarized and criticised by Dr. W. A. Craigie in the volume entitled *The Icelandic Sagas* (New York, G. P. Putnam's Sons, 1913; viii, 120 pp.), their value as a source for the law of the North Countries is obvious even to the layman. These prose epics sung and resung throughout the middle ages tell us what we know of the migrations, culture, folk lore, and genealogy of the old Scandinavians, but are further useful in the glimpses they give of the Althingi and the insight they afford into the functions of the skalds as law-speakers (page 43). Interesting to students of exploration are the sagas dealing with Eirik the Red and his doughty son (pages 57–58), as well as those with the early visits to the British Isles (page 10). The study includes the sagas of Norway, Denmark, the Orkneys and the Faröes. Altogether this little book is suggestive to the specialist, necessary to the student and interesting to the general reader, though like most small handbooks it verges toward the catalogue form, inducing one to wish for less matter and more art.

The labors of Professor Herbert E. Bolton in the archives of Mexico, under the auspices of the department of historical research of the Carnegie Institution of Washington, and the possession also of the rich stores of the Bancroft Library, have given the University of California foremost rank among the educational institutions of the United States that devote especial attention to the history of the Southwest. Proofs of its service to scholarship arising out of these advantages are visible in two excellent monographs that have recently appeared. The first, by Anne E. Hughes, on the *Beginnings of Spanish Settlement in the El Paso District* (Berkeley, University of California Press, 1914; 97 pp.), narrates the story of the Spanish occupation of that area from 1659 to 1685. It centers, however, on the last five years of the period, partly because of the actual dates of entrance into the region, and partly because of the value of four *expedientes*, or groups of related documents, discovered not long ago in the archives of Mexico and now utilized for the first time in print. An interesting claim is made by the author, at the close of her work, that the real beginnings of the colonization of Texas are to be associated, not with the missions founded in 1690 on the Neches River, but with the settlements along the Rio Grande in the El Paso district, ten years before.

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The second of these monographs, by Thomas Maitland Marshall, presents *A History of the Western Boundary of the Louisiana Purchase, 1819–1841* (Berkeley, University of California Press, 1914; xiii, 266 pp.). Handling a larger and more important theme than does its immediate predecessor, it discusses the intricate negotiations in which Spain, Mexico, Texas and the United States were engaged up to the final survey of the Sabine line. Following in some measure the investigations of many others in similar fields of inquiry, but depending more on primary material, the author has produced a work that may well be regarded as the standard treatise on the subject. In it the special student will find of interest the thirty maps, the unusually precise bibliography and certain novel interpretations of disputed facts which are defended with much skill. The assertion, however, that "Wilkinson sold his services to the Spanish government while he was stationed on the western frontier" (page x), might seem to imply no earlier origin of that officer's venality.

The lack of a good history of the career of the French in the Mississippi Valley, with particular reference to the institutions set up and the precise nature of French expansion in that part of the New World, has long been evident. It will not be supplied by the work of John Finley on *The French in the Heart of America* (New York, Charles Scribner's Sons, 1915; x, 431 pp.), despite the promising title. The book is mainly a reproduction of lectures delivered at the Sorbonne and elsewhere in France. Its publication at this time is intended, seemingly, to suggest a state of present sentiment, as well as to offer an estimate of bygone achievement, in this country. Embellished with the language of eloquence and poetic imagery, it conveys to the American public the message of affectionate admiration which the author gave to audiences in France, both as a reminder of the deeds of her sons across the seas and as an evaluation of what was accomplished by the men of another stock who followed in the wake of the Gallic pioneers. Though not a history, Dr. Finley's work is a charming bit of historical impressionism that deserves a companion-piece depicting the Spaniards, not in the heart alone, but throughout the body, of America.

*The Evolution of Brazil compared with that of Spanish and Anglo-Saxon America* (Stanford University, published by the University, 1914; 159 pp.), is the title of the book form of six lectures by Manoel de Oliveira Lima, the Brazilian historian. For the information of readers unfamiliar with the work of the author and unacquainted with numerous allusions in the text, Professor Percy Alvin Martin has contributed an introduction and also an addendum of thirty pages of notes.

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Both of the contributions are decidedly useful in attaining the objects sought, even if typographical and other slips are a bit frequent (e. g., pages 21, 130, 132–34, 137–41, 143–154, 156–57). As a rule, Dr. Lima has chosen a few large topics for the purpose of especial comparison. What he has to say about them is illuminating and scholarly. Yet the reader is disposed to wonder how desirable it may be to publish a few lectures on a theme so huge and so controversial, when knowledge of the Hispanic side of the comparison is still far from being either common or correct in "Anglo-Saxon" America.

India, like Spain, is one of the strange lands of earth about which travelers are wont to write books after a sojourn there of a few months. *India, its Life and Thought* (New York, The Macmillan Company, 1915; xvii, 448 pp.), by John P. Jones, is not a book of that kind. Based, instead, on an actual residence of thirty years given over to missionary endeavor it presents, in popular form and large type, a summary of the most important social and religious characteristics of that country of three hundred million inhabitants. The material is drawn mainly, it would seem, from the knowledge gained by personal contact with men and affairs, rather than that furnished by scientific investigation. Its strongest appeal, of course, is to those concerned with missions, but it can be read to great advantage by all who wish to obtain a good general idea of Indian custom and character. The work throws no light on the intellectuality of the modern Indian or on his reaction to Western influences other than Christian in the purely religious sense; it passes over the question of unrest in a manner involving a number of curious contradictions in statement, and is silent, also, about a variety of matters profoundly interesting, and perhaps equally illustrative of Indian life and thought.

In order to apprehend the essentials of the nationalistic agitation in India, one must study at length the curious union of religiousness and religiosity which pervades it. To approach the subject from the standpoint of the merely probable operation of European influences, given an appropriate *milieu* of circumstance, is not sufficient. The book by J. N. Farquhar on *Modern Religious Movements in India* (New York, The Macmillan Company, 1915; xv, 471 pp.), expanding a course of eight lectures delivered on the Lamson Foundation at Hartford Theological Seminary, goes far toward supplying the needed angle of vision. More scientific in every respect than the work above described, it is considerably broader also in actual scope. Beginning with an allusion to the effective interpenetration of India by the West about 1800, Mr. Farquhar traces historically the origin and development of the several

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reforming faiths from 1828 to 1913. The processes of action and reaction, culminating in the nationalistic propaganda of recent years, and the organic results in general for the socio-religious complex, are worked out with great care. Particularly helpful are the initial chapter, which provides an illuminating outline of the entire period under review, and the closing one, which sums up the significance of the movements. An appendix emphasizes the utter unreliability of the historical literature of theosophy. The book, furthermore, is aptly illustrated, and its references are such as to inspire confidence in the text.

*History of the Reconstruction Period* (New York, Dodd, Mead and Company, 1913; xvi, 398 pp.) forms the seventh and concluding volume of James Schouler's *History of United States of America under the Constitution*. Volume vii begins with the administration of Andrew Johnson and concludes with the second administration of Grant. The author's reason for publishing another book on this much worked over period of United States history is to be found in the following paragraph:

> When President Johnson's posthumous manuscripts were placed in the Library of Congress, about eight years ago, I made a careful study of them, stating the general results in published articles. The conviction I then gained that injustice had been done to Johnson in the popular estimate of his official career was strongly confirmed when, in 1910–11, the Diary of Secretary Welles relating to that executive term appeared in print in the *Atlantic Monthly*. I now carefully studied the whole record of that term for myself, and as a result felt deeply that this much maligned President needed a vindication, as against other historical writers; and furthermore, that the vindicator ought to be myself [page iii].

In spite of this worthy object of vindicating a "much maligned President," Mr. Schouler has not contributed anything of importance to the history of the twelve years embraced in the administrations of Johnson and Grant, and this new volume certainly will not increase his fame as an historian. Except for his friendly attitude toward President Johnson, Mr. Schouler's general views are in entire accord with those of Mr. Rhodes. If we leave out of account a few inconsequential personal recollections and a short discussion of the District of Columbia and the centennial celebration, we find no facts in this book but what have been brought out previously by other historians of the epoch. Mr. Schouler's style approaches too nearly the mock-heroic to be impressive, while his method of treatment is so slavishly chronological that no one subject is thoroughly clarified. A general index to the whole work of seven volumes will doubtless be of assistance to students desiring to use the author's *History* for general reference.

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Mr. Brand Whitlock's autobiography, *Forty Years of It* (New York, D. Appleton and Company, 1914; xii, 374 pp.), is an interesting and valuable commentary on the politics of the Middle West from about 1880 to the present time. It gives an intimate view of a number of actors on that stage, such as John P. Altgeld, Samuel M. Jones and Tom L. Johnson, and describes many exciting campaigns in that long "war on the bosses" which has been the chief concern of a large section of American reformers. It also affords brief glimpses into some of the events which were great in their time—great in the sense that they filled the headlines of the newspapers for the traditional "four days." Of Mr. Whitlock's experiences as mayor of Toledo there is surprisingly little in the volume, and what there is relates principally to police administration and free speech in street meetings. The chief interest of the book is the insight that it offers into the mental operations of the leaders in "militant democracy"—a combination of Walt Whitman's anarchy with municipal home rule and better park facilities. However, one does not have to be thrilled by the "freedom" of a middle-western town, that can draft its own charter and own its water works, in order to appreciate Mr. Whitlock's entertaining essays.

James M. Beck, formerly assistant attorney-general of the United States, in *The Evidence in the Case* (New York, G. P. Putnam's Sons, 1914; xxiv, 200 pp.), has made an analysis of the diplomatic correspondence published by the various nations engaged in the European war, for submission to the supreme court of civilization—the conscience of mankind. This study attempts to fix the moral responsibility for the war, and results in an arraignment of the Teutonic nations for a crime against civilization. The author points out the noticeable suppression of evidence in the presentation of Germany's case and discusses the responsibility of Germany for the Austrian ultimatum. The efforts of England, Russia and France to preserve peace and Servia's pacific reply to the ultimatum are shown to have been ineffective because of the refusal of Germany and Austria to give an extension of time for the diplomatic consideration of the issues involved. The author makes a survey of the intervention of the Kaiser, his insistence upon impossible unilateral conditions and his final declaration of war. The case of Belgium is considered, and the weakness of Germany's argument in defence of her action in violating Belgian neutrality is pointed out. The final chapter presents the author's ideas as to the judgment of the world upon the question of where to place the responsibility for the war.

*The War in Europe* (New York, D. Appleton and Company, 1914; ix, 254 pp.), by Professor Albert Bushnell Hart, is a small volume written

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during the early days of the war and designed to serve as a manual of the war and the countries involved. The first part of the book gives a summary of the resources of the various powers, an account of the industrial, religious and race divisions of Europe and a sketch of the international relationships of the warring nations. In the second part, the causes of the war and its beginnings are briefly discussed. Chapters are devoted to questions of neutrality, methods of warfare and the effect of the war on the United States. In conclusion the author indulges in some speculations as to the outcome of the struggle.

The ninth volume of the Continental Legal History series, published under the auspices of the Association of American Law Schools, makes readily accessible for English and American students of legal history Jean Brissaud's *History of French Public Law* (Boston, Little, Brown, and Company, 1915; lviii, 581 pp.), translated from the French by James W. Garner. Without sacrificing that clearness for which French scholars are famous, Brissaud shows evidences of German influence in the extensive subdivisions of his subject-matter and the wealth of incidental definition, due in part to his sectional treatment. The book will interest and aid but will not inspire. After all acknowledgment due in recognition of its value as a work of erudition and a much-needed help to a fuller study of the development of French public law, we must regret that it fails to present a picture of the French system as a whole. The author has taken advantage of the researches of Esmein, Viollet and Fustel de Coulanges, but we miss the touch of those masters who made to live the obscure and long-forgotten past.

Five volumes lately issued in the *Collection de Documents inédits sur l'histoire économique de la Révolution Française*, testify again to the great care taken in the preparation of this series. An article by E. M. Sait in the POLITICAL SCIENCE QUARTERLY for June, 1910, gave a review of the scope and purpose of this collection, with an appreciation of its importance. Charles Porée in a second volume entitled *Documents relatifs à la vente des biens nationaux dans le district de Sens* (Auxerre, Imprimerie Coopérative Ouvrière "l'Universelle," 1913; 735 pp.), gives other documents relating to the sale of the Biens Nationaux around Sens. The especial importance of this district, with its rich archbishopric, for such an investigation has justified the many pages of detail.

Documents on the sale of the Biens Nationaux in the district around Remiremont are published by Leon Schwab in *Documents relatifs à la vente des biens nationaux dans le departement des Vosges* (Epinal, Imprimerie Vosgienne, 1913; lxxxi, 394 pp.). The introduction and the

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charts are definite and clear; the author brings out the fact that of the 361 purchasers only one signed with a cross, while the other names seem to be the signatures of people who were accustomed to write. In this district the sales were local, and in many cases those who held a lease turned it into a definite possession. Consequently the purchasers had benefited from their education, and in this district at least the education must have been more thorough than is generally believed.

The actual position of the clergy at the Revolution in three districts of Ille-et-Vilaine is a study made by Armand Rebillon, under the title of *La Situation économique du clergé à la veille de la Révolution* (Rennes, Imprimerie Oberthur, 1913; cxxix, 780 pp., map.). The population of this region was hardly more than 200,000 and the clergy formed from 1300 to 1600 of them. It is interesting to see that in these districts the rich and ancient establishments suffered, while the poverty of other establishments made for the activity that preserved them; 129 pages of introduction are followed by 780 pages of documents, with a map and a bibliography.

Émile Bridrey publishes the third volume of the *Cahiers de Doléances du Bailliage de Cotentin* (Paris, Imprimerie Nationale, 1914; 656 pp.). The first volume appeared in 1907; as in the two earlier volumes, the footnotes are full and the mistakes in the *Cahiers* are carefully and exactly noted.

The first volume of a collection of *Documents relatifs à l'histoire des subsistances dans le district de Bergues pendant la révolution, 1788—An v,* (Lille, Imprimerie - Librairie Camille Robbe, 1914; cxxiv, charts, 670 pp.), edited by Georges Lefebvre, was published in 1914. Bergues is some twenty miles inland from Dunkirk, and the influence of the passing of the armies on the price of subsistence in this district is carefully traced out. One wonders if it can still be said that economic investigations in the French Revolution are the fashion. At any rate there are new problems working out for many future investigations in this same fertile district of Flanders.

A recent volume entitled *Cours de Doctrine et de Pratique Sociales* (Paris, J. Gabalda, 1914; 511 pp.), containing twenty-seven lectures delivered at the tenth *Semaine Sociale* of France, is both interesting and important as an indication that, just before the Great War, the Catholics of European countries were devoting themselves as never before to the study of social and economic problems. Among the various methods adopted by the so-called "social Catholics" in their endeavor to give the rank and file an intelligent appreciation as well as

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a practical program of social reform, probably the most conspicuous is the *Semaine Sociale*—a seven-days' course of popular lectures and conferences given each summer at a different city. In ten years the *Semaine Sociale* of France has won an international reputation. Its most recent session, held at Versailles from July 28 to August 3, 1913, thronged by a thousand Frenchmen, attracted visitors from all nations of western Europe, excepting only Portugal, and even from Canada, Argentina, and Brazil. The lectures, now published in book form, touch upon the most diverse topics, from the social philosophy of Dante and the Separatist philosophy of Locke to the legal protection of children and the closing of shops on Sunday; nevertheless the reader will discern a unifying theme, the idea of social responsibility. The social responsibilities of all classes of Catholics are discussed in turn by scholars like Mgr. Deploige, president of the Institut Supérieur de Philosophie at the now desolate University of Louvain, by theologians like the eloquent Abbé Sertillanges, by the secretary of the French Association for the Protection of Labor, by a member of the Chamber of Deputies, by professors of law from Catholic universities. Perhaps the most remarkable of the series is a discussion of trade-union ethics by Père Rutten, a Dominican who, out of sympathy for the proletariat, doffed his white friar's habit, donned the miner's smutty smock, lived the toilsome life of a day-laborer, and eventually became the active leader of a hundred thousand Catholic trade-unionists in Belgium.

The title of Mr. H. N. Brailsford's *The War of Steel and Gold* (London, G. Bell and Sons, 1914; 320 pp.) suggests the journalistic fashion in which the author studies the armed peace of Europe. His book was published just before the outbreak of the war and his argument derives special interest from that fact. Imperialism, in his view, is due to the pressure of capital seeking profitable investment in undeveloped countries. National economic rivalry is a rivalry not primarily in trade, but in finance; and modern wars, so far as they are fought for economic ends, determine who shall get railroad and mining concessions, rather than who shall carry on trade. Modern diplomacy is concerned chiefly with the same question, and the building of big navies is intended to put behind the diplomat the threat of armed force, securing valuable concessions for his nationals. This idea Mr. Brailsford illustrates by a variety of interesting examples. Egypt serves as the critical case. The second half of the book is an effort to develop a constructive policy of control of foreign investment and diplomacy, not only to prevent war but to do away with the necessity for large armaments. The interesting suggestion is made that Great Britain maintain a register

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of all capital owned abroad by British subjects, with the idea of exercising control over such investments. While the book will not be accepted by economists and students of public law as an authoritative exposition of the problems with which it deals, it does give expression to a suggestive point of view concerning the relation between foreign investment and international affairs.

"To bring again to light the half-forgotten theories of the classical economists," in so far as they bear upon the problems of public credit and public debt, is the task which Dr. John Joseph Berckum sets before himself in his monograph entitled *Das Staatsschuldenproblem im Lichte der Klassischen Nationalökonomie* (Leipzig, A. Deichert, 1911; x, 243 pp.). Such an undertaking, he believes, may have results of "a not insignificant value from both a scientific and practical point of view." After an historical survey of the growth of public debts which occupies forty-eight pages, the author examines in turn the writings of Quesnay, Adam Smith, Malthus, Ricardo, J. B. Say and John Stuart Mill. The first four of these economists Dr. Berckum credits with "truly original minds," and he concludes that a return to the old masters is advisable if "any but a surface explanation of the problems is desired."

In their effort to keep in touch with the many directions of research in economic theory, economists have keenly felt the need of a work that would give an adequate history and a just appreciation of the publications of the mathematical economists. Zawadzki's *Les Mathématiques appliquées à l'économie politique* (Paris, Marcel Rivière et Cie., 1914; 331 pp.) admirably meets this need. The work contains an account of the predecessors of Cournot; a discriminating appreciation of the contributions of Cournot himself, whom the author regards as "le premier économiste mathématicien scientifique"; a review of the origin and development of the theory of utility; a masterly presentation of the history and theory of economic equilibrium, and a critical exposition of Pareto's theory of choice. The author is able, erudite, and sympathetic with the aims of the mathematical school, and consequently his opinion as to the achievements of this group of economists should be carefully weighed. He believes (1) that the method used and popularized by Marshall and Edgeworth, which attempts to treat economic questions without an adequate theory of general equilibrium, gives only approximate results in the hands of these cautious investigators and is almost certain to lead to wrong conclusions when concrete problems are treated (pages 298-306, 315-318); (2) that the scientific importance of the method which has just been described is not comparable with

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that originated by Walras and developed by Pareto (page 318); (3) that up to the present time, with the exception of an article by Pareto, the mathematical school has dealt with theoretical questions only under the assumption of statical relations; it has not touched concrete, dynamic problems (pages 320-321)—"ses théorèmes ne sont exacts que dans des conditions trop éloignées de la réalité; ses notions ne concordent pas avec celle de la vie ordinaire" (page 326); (4) that the promise of really helpful theoretical research is in the direction taken by the École de Lausanne.

Two other recent works on mathematical economics are Rudolf Auspitz and Richard Lieben's *Recherches sur la théorie du prix* (Paris, Giard and Brière, 1914; xxiii, 371 pp.), and E. Antonelli's *Principes d'économie pure* (Paris, Marcel Rivière et Cie., 1914; ix, 206 pp.). The first of these works, which is a translation of the well-known *Untersuchungen über die Theorie des Preises*, contains only a very few minor additions to the original text, and these are pointed out by Richard Lieben in a prefatory note. Antonelli's volume is an attempt to present the substance of Walras's theory in a simplified form. It is carefully, reverently composed. In addition to his work of simplification, M. Antonelli elaborates his sketch of the life and work of Léon Walras, which was originally published in the *Revue d'histoire des doctrines économiques et sociales* for 1910. This sketch, together with the charming preface contributed by Professor Georges Renard, is the most complete account in existence of the inspiring life of the founder of the École de Lausanne.

Professor E. D. Durand of Minnesota has reprinted in a convenient volume entitled *The Trust Problem* (Cambridge, Harvard University Press, 1914; 145 pp.) his three lectures on that topic delivered at Harvard University and originally printed in the *Quarterly Journal of Economics*. Dr. Durand is rather more skeptical of the possibility of regulating trusts than are most of his colleagues, and he demands that the trusts should be suppressed. Equally radical in the eyes of many, and perhaps even more questionable, is his suggestion that a vigorous exercise of the taxing power should be invoked to take away a large part of the monopoly profits. In the present welter of public opinion on the general subject, however, Dr. Durand's clear and suggestive presentation of a difficult problem is to be welcomed.

Mr. George H. Pownall, a prominent figure in the English banking world and vice-president of the Institute of Bankers, has published three lectures delivered at the London School of Economics under the title of *English Banking* (London, Blades, East and Blades, 1914;

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xv, 78 pp.). As Professor Foxwell states in an informing preface, Mr. Pownall's chief preoccupation has been with the question of the reserve. The author has been, and still is, a great advocate of the central-reserve system, and his warning that the cash reserve in England is inadequate has been amply justified by recent events. Among the many other interesting points touched upon by Mr. Pownall are the desirability of supplementing the consols by a new redeemable state security and by a change in the practice of the English banks. "It is a moot question in my own mind," we read, "whether a great bill case is not better than investment and I incline plumb for bills." The student of modern banking problems will find much information and many acute suggestions in the excellent little book.

Those interested in the details of the technique of the property and the income tax in Switzerland will find a full statement of the actual law and practice in each canton in the work by Fritz Ott entitled *Die Vermögens und Einkommens-Steuern in der Schweiz. Orientierung für Steuerpflichtige* (Zürich, Art Institut Orell Füssli, 1914; 279 pp.). The author is a Zürich lawyer who published some years ago a similar work on conditions in his own canton. The purpose of the volume is not so much to give a scientific discussion of principles as to present an authoritative statement of the actual law and the administrative procedure. Especially important is the full information with reference to local taxation.

The admirable work of Robert H. Whitten on *Valuation of Public Service Corporations*, which was noticed in the POLITICAL SCIENCE QUARTERLY for December, 1913, has been enriched by the *Supplement*, which is paged continuously with the original work (New York, The Banks Law Publishing Company, 1914; xxvii, 799–1443 pp.). Most of this volume is taken up with analyses of the many court and commission decisions that have appeared in the intervening two years, but there is also a further development of the author's statement of the legal and economic principles of valuation. In its present shape the work forms without doubt the most authoritative and up-to-date presentation of the theory and practice of valuation.

We have heard much in recent years about the tax on unearned increment in Germany, but very little has been written about the actual results of the experiment. Dr. Berthold, one of the assistants in the Prussian statistical bureau, has now undertaken to throw light on this subject by his monograph, *Ergebnisse der Wertzuwachssteuer und die Wirkungen der Steuer auf den Grundstücksumsatz* (Berlin, Franz Vahlen, 1914; 132 pp.). Dr. Otto Berthold first deals with the financial results which are shown to be of somewhat minor importance.

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The bulk of the monograph is devoted to a study of the effects of the tax upon the transfer of land. His conclusion, after a detailed survey of the facts in local communities, is that in the main the tax has not been shifted, and that the result has been to discourage the smaller speculator and the more or less insolvent purchaser. The author believes that on the whole the tax has decreased unwise speculation, and has approved itself in most of the communities.

A melancholy interest attaches to the last work of the gifted Pierre Leroy-Beaulieu on the fiscal situation of the chief belligerent countries, *Les Impôts et les Revenus en France, en Angleterre et en Allemagne* (Paris, Librairie Armand Colin, 1914; 68 pp.), written before the outbreak of the conflict where the author has recently found a warrior's death. The little book gives a clear picture of the recent changes in the fiscal systems in France, England, and Germany, with a number of incidental references to our own income tax. The monograph is intended to warn against an exaggerated increase of direct as over against indirect taxation. In this M. Beaulieu follows in the footsteps of his eminent father, who still wields a vigorous and facile pen in opposition to what is the undoubted fiscal development in France.

Professor Karl Diehl, as editor, has initiated a series of contributions to the history of economics by two solid productions. The one by Dr. Edmund Schreiber is entitled *Die volkswirtschaftlichen Anschauungen der Scholastik seit Thomas v. Aquin* (Jena, Gustav Fischer, 1913; viii, 246 pp.). About one-half of Dr. Schreiber's monograph deals with the views of Thomas Aquinas on value and price. His successors are treated under several heads. First comes the gradual unfolding of the subjective theory by Bonaventure, Henry of Ghent, Richard of Middletown and Duns Scotus. Next comes the principle of freedom of contract as outlined by Lessinus, de Mayronis, Peter de Palude, Buridan and Oresme. Then follows the reaction represented by Langenstein, Oyta and Gerson. Finally comes the compromise, represented by Nider, Laurence de Rodulfis, Antony of Florence, and Bernard of Siena. These names, it will be seen, are not new. The book, therefore, can not be called an original contribution to medieval economics. Its value however consists not only in a fresh first-hand study of the authors mentioned, but also in a detailed account of the literature that has been hitherto devoted to each one of the writers. From this point of view it is a useful contribution to the subject.

The other work, by Dr. Kurt Zielenziger, is entitled *Die alten deutschen Kameralisten* (Jena, Gustav Fischer, 1914; xiii, 468 pp.) Dr. Zielenziger's work had scarcely been begun when Professor Small's

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book made its appearance; but the author considered for three reasons that this did not render his work unnecessary. In the first place Dr. Small's book, being written in English, would probably not be consulted much in Germany. In the second place, Dr. Zielenziger differs with Small on some important points, especially in considering Cameralism to be only a subordinate part of Mercantilism. In the third place, he has treated of certain authors that escaped even Professor Small's vigilant scrutiny. After a long introduction in which the author takes up again the much-disputed question as to what is the real essence of Mercantilism, he tries to distinguish between the true and the false Cameralists in giving an account of the separate authors. His interpretation is frequently at variance with that of Small, as, for instance, when he disputes the latter's contention as to the originality of Obrecht. The two new Cameralists whom Zielenziger adds to the usually accepted list are Johann Georg Leib and Theodor Ludwig Lau. The conclusion of Dr. Zielenziger's painstaking work is that while these representatives of the earliest German economic literature had neither the depth nor the originality of their English contemporaries, they deserve more attention than has hitherto been accorded to them.

The Italians have in recent years acquired the somewhat doubtful reputation of devoting huge volumes to topics which in other countries are generally handled in a much more summary way. With the increasing importance attached to the problems of double taxation, it is not surprising to find such a volume devoted to the subject under the title of *Le Doppie Imposizioni* (Citta de Castello, S. Lapi, 1914; 8vo, 682 pp.), by Dr. Giovanni Fasolis. Possessing a thorough acquaintance with the entire literature of the subject, American as well as European, Dr. Fasolis has added to our information by including in his study a careful treatment of the Italian jurisprudence of the subject. Among the other valuable features of the monograph is the juxtaposition of the different views held by various authorities on almost every controverted phase of theory. This does not, however, prevent Dr. Fasolis from coming to certain very definite conclusions of his own, as for instance when he states that in no case is a simultaneous taxation of corporation and security-holder legitimate. Students of current American problems will find much food for reflection in this latest contribution to the subject.

An illustration of the thoroughness with which the Germans acquaint themselves with the nature and possibilities of a region before they venture to do business there is furnished by the work of Dr. Ernst Wagemann on *Die Wirtschaftsverfassung der Republik Chile* (Münich and

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Leipzig, Duncker und Humblot, 1913; vii, 253 pp.). Devoted primarily to an examination of the historical development of the Chilean monetary system, it describes also the numerous factors in the industrial, commercial, social and political situation which have determined the process. A bibliography and a series of statistical tables complete what is probably the most authoritative account yet published of Chilean economic conditions. It deserves to be read with care by those now engaged in promoting closer trade relations between the United States and this part of Latin America.

With the exception of annual reports of government departments, extra-official parliamentary hand-books, and the annals issued from the headquarters of political parties, there can scarcely be an English annual that is more serviceable in a library of political science than the *Shipping World Year Book* (London, Office of the Shipping World, 1915; xxxii, 2004 pp., maps). It is edited by Major Rowland Jones, who served in the Civil War and who is well known as the author of *Four Years in the Army of the Potomac*. The current issue is a volume of two thousand pages. Digests of the statutes affecting coastwise and oversea trade—what may be described as the mercantile marine code of Great Britain—extended to 220 pages; and 1030 pages are devoted to tariffs. Every nation with a tariff—protective tariff or tariff for revenue only—is included in this admirably arranged compilation. Tonnage and shipbuilding statistics, like the digests of shipping laws and the tariffs of all nations, are standing features of the *Year Book*. New features in the twenty-ninth edition are tables of freeboard, revised by the British Board of Trade, and a summary of the present position of European nations in respect to an international load-line.

*American Shipping: Its History and Economic Conditions* (Jena, (Gustav Fischer, 1913; xx, 144 pp.), by Hans Keiler, is a chronological account of the development of American shipping from colonial times down to the present, with some consideration of the legislation of the different periods. Written largely from secondary sources, it contains little that is new even to casual students of the subject. It includes some discussion of the causes of the decline of our shipping since the Civil War, but little that is not found in other works.

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